

1 UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF OHIO

3 EASTERN DIVISION

4 -----) MDL No. 2804

5 IN RE: NATIONAL)

6 PRESCRIPTION OPIATE)

7 LITIGATION)

8 -----) No. 1:17-MD-2804

9 THIS DOCUMENT RELATES TO:)

10 ALL CASES)

11 -----) Hon. Dan A. Polster

12

13 HIGHLY CONFIDENTIAL

14 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

15

16 The videotaped deposition of MICHAEL M.
17 MILLER, M.D., called by the Plaintiffs for
18 examination, taken pursuant to the Federal Rules of
19 Civil Procedure of the United States District Courts
20 pertaining to the taking of depositions, taken before
21 JULIANA F. ZAJICEK, a Registered Professional Reporter
22 and a Certified Shorthand Reporter, at the offices of
23 Foley & Lardner, Suite 400, 150 East Gilman Street,
24 Madison, Wisconsin, on June 4, 2019, at 10:00 a.m.

Page 2	Page 4
1 APPEARANCES: 2 ON BEHALF OF THE PLAINTIFFS: 3 CRUEGER DICKINSON LLC 4 4532 North Oakland Avenue 5 Whitefish Bay, Wisconsin 53211 6 414-210-3767 7 BY: ERIN DICKINSON, ESQ. 8 ekd@cruegerdickinson.com 9 10 -and- 11 12 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP 13 275 Battery Street, 29th Floor 14 San Francisco, California 94111-3339 15 415-956-1000 16 BY: DONALD C. ARBITBLIT, ESQ. 17 darbitblit@lchb.com 18 -and- 19 BARON & BUDD, P.C. 20 15910 Ventura Boulevard, Suite 1600 21 Encino, California 91436 22 818-839-2333 23 BY: JAY LICHTER, ESQ. (Telephonically) 24 jlichter@baronbudd.com 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	1 APPEARANCES: (Continued) 2 ON BEHALF OF JOHNSON & JOHNSON AND JANSSEN 3 PHARMACEUTICALS, INC.: 4 5 O'MELVENY & MYERS LLP 6 1999 Avenue of the Stars, 8th Floor 7 Los Angeles, California 90067 8 310-246-6705 9 BY: RYAN SNYDER, ESQ. (Telephonically) 10 rsnyder@omm.com 11 12 ON BEHALF OF WEST VIRGINIA BOARD OF PHARMACY: 13 14 BAILEY & WYANT, PLLC 15 500 Virginia Street, Suite 600 16 Charleston, West Virginia 25337 17 304-345-4222 18 BY: JUSTIN TAYLOR, ESQ. (Telephonically) 19 jtaylor@bailewyant.com 20 21 22 23 24
Page 3	Page 5
1 APPEARANCES: (Continued) 2 ON BEHALF OF AMERISOURCEBERGEN CORPORATION and 3 AMERISOURCEBERGEN DRUG CORPORATION: 4 REED SMITH LLP 5 1301 K Street, N.W., Suite 1000 - East Tower 6 Washington, D.C. 20005 7 202-414-9403 8 BY: KELLY H. HIBBERT, ESQ. 9 khibbert@reedsmith.com 10 -and- 11 REED SMITH LLP 12 Three Logan Square 13 1717 Arch Street, Suite 3100 14 Philadelphia, Pennsylvania 19103 15 215-851-8100 16 BY: JEFFREY R. MELTON, ESQ. (Telephonically) 17 jmelson@reedsmith.com 18 19 ON BEHALF OF HBC SERVICES: 20 MARCUS & SHAPIRA LLP 21 One Oxford Centre, 35th Floor 22 Pittsburgh, Pennsylvania 15219 23 412-471-3490 24 BY: DARLENE M. NOWAK, ESQ. (Telephonically) nowak@marcus-shapira.com 25 26 ON BEHALF OF PURDUE PHARMA, L.P., PURDUE PHARMA, INC. 27 and THE PURDUE FREDERICK COMPANY, INC.: 28 DECHERT LLP 29 Three Bryant Park 30 1095 Avenue of the Americas 31 New York, New York 10036-6797 32 212-698-3500 33 BY: NEGIN HADAGHIAN, ESQ. (Telephonically) 34 negin.hadaghian@dechert.com 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 589 590 591 592 593 594 595 596 597 598 599 599 600 601 602 603 604 605 606 607 608 609 6010 6011 6012 6013 6014 6015 6016 6017 6018 6019 6020 6021 6022 6023 6024 6025 6026 6027 6028 6029 6030 6031 6032 6033 6034 6035 6036 6037 6038 6039 6030 6031 6032 6033 6034 6035 6036 6037 6038 6039 6040 6041 6042 6043 6044 6045 6046 6047 6048 6049 6040 6041 6042 6043 6044 6045 6046 6047 6048 6049 6050 6051 6052 6053 6054 6055 6056 6057 6058 6059 6050 6051 6052 6053 6054 6055 6056 6057 6058 6059 6060 6061 6062 6063 6064 6065 6066 6067 6068 6069 6060 6061 6062 6063 6064 6065 6066 6067 6068 6069 6070 6071 6072 6073 6074 6075 6076 6077 6078 6079 6070 6071 6072 6073 6074 6075 6076 6077 6078 6079 6080 6081 6082 6083 6084 6085 6086 6087 6088 6089 6080 6081 6082 6083 6084 6085 6086 6087 6088 6089 6090 6091 6092 6093 6094 6095 6096 6097 6098 6099 6090 6091 6092 6093 6094 6095 6096 6097 6098 6099 6100 6101 6102 6103 6104 6105 6106 6107 6108 6109 6100 6101 6102 6103 6104 6105 6106 6107 6108 6109 6110 6111 6112 6113 6114 6115 6116 6117 6118 6119 6110 6111 6112 6113 6114 6115 6116 6117 6118 6119 6120 6121 6122 6123 6124 6125 6126 6127 6128 6129 6120 6121 6122 6123 6124 6125 6126 6127 6128 6129 6130 6131 6132 6133 6134 6135 6136 6137 6138 6139 6130 6131 6132 6133 6134 6135 6136 6137 6138 6139 6140 6141 6142 6143 6144 6145 6146 6147 6148 6149 6140 6141 6142 6143 6144 6145 6146 6147 6148 6149 6150 6151 6152 6153 6154 6155 6156 6157 6158 6159 6150 6151 6152 6153 6154 6155 6156 6157 6158 6159 6160 6161 6162 6163 6164 6165 6166 6167 6168 6169 6160 6161 6162 6163 6164 6165 6166 6167 6168 6169 6170 6171 6172 6173 6174 6175 6176 6177 6178 6179 6170 6171 6172 6173 6174 6175 6176 6177 6178 6179 6180 6181 6182 6183 6184 6185 6186 6187 6188 6189 6180 6181 6182 6183 6184 6185 6186 6187 6188 6189 6190 6191 6192 6193 6194 6195 6196 6197 6198 6199 6190 6191 6192 6193 6194 6195 6196 6197 6198 6199 6200 6201 6202 6203 6204 6205 6206 6207 6208 6209 6200 6201 6202 6203 6204 6205 6206 6207 6208 6209 6210 6211 6212 6213 6214 6215 6216 6217 6218 6219 6210 6211 6212 6213 6214 6215 6216 6217 6218 6219 6220 6221 6222 6223 6224 6225 6226 6227 6228 6229 6220 6221 6222 6223 6224 6225 6226 6227 6228 6229 6230 6231 6232 6233 6234 6235 6236 6237 6238 6239 6230 6231 6232 6233 6234 6235 6236 6237 6238 6239 6240 6241 6242 6243 6244 6245 6246 6247 6248 6249 6240 6241 6242 6243 6244 6245 6246 6247 6248 6249 6250 6251 6252 6253 6254 6255 6256 6257 6258 6259 6250 6251 6252 6253 6254 6255 6256 6257 6258 6259 6260 6261 6262 6263 6264 6265 6266 6267 6268 6269 6260 6261 6262 6263 6264 6265 6266 6267 6268 6269 6270 6271 6272 6273 6274 6275 6276 6277 6278 6279 6270 6271 6272 6273 6274 6275 6276 6277 6278 6279 6280 6281 6282 6283 6284 6285 6286 6287 6288 6289 6280 6281 6282 6283 6284 6285 6286 6287 6288 6289 6290 6291 6292 6293 6294 6295 6296 6297 6298 6299 6290 6291 6292 6293 6294 6295 6296 6297 6298 6299 6300 6301 6302 6303 6304 6305 6306 6307 6308 6309 6300 6301 6302 6303 6304 6305 6306 6307 6308 6309 6310 6311 6312 6313 6314 6315 6316 6317 6318 6319 6310 6311 6312 6313 6314 6315 6316 6317 6318 6319 6320 6321 6322 6323 6324 6325 6326 6327 6328 6329 6320 6321 6322 6323 6324 6325 6326 6327 6328 6329 6330 6331 6332 6333 6334 6335 6336 6337 6338 6339 6330 6331 6332 6333 6334 6335 6336 6337 6338 6339 6340 6341 6342 6343 6344 6345 6346 6347 6348 6349 6340 6341 6342 6343 6344 6345 6346 6347 6348 6349 6350 6351 6352 6353 6354 6355 6356 6357 6358 6359 6350 6351 6352 6353 6354 6355 6356 6357 6358 6359 6360 6361 6362 6363 6364 6365 6366 6367 6368 6369 6360 6361 6362 6363 6364 6365 6366 6367 6368 6369 6370 6371 6372 6373 6374 6375 6376 6377 6378 6379 6370 6371 6372 6373 6374 6375 6376 6377 6378 6379 6380 6381 6382 6383 6384 6385 6386 6387 6388 6389 6380 6381 6382 6383 6384 6385 6386 6387 6388 6389 6390 6391 6392 6393 6394 6395 6396 6397 6398 6399 6390 6391 6392 6393 6394 6395 6396 6397 6398 6399 6400 6401 6402 6403 6404 6405 6406 6407 6408 6409 6400 6401 6402 6403 6404 6405 6406 6407 6408 6409 6410 6411 6412 6413 6414 6415 6416 6417 6418 6419 6410 6411 6412 6413 6414 6415 6416 6417 6418 6419 6420 6421 6422 6423 6424 6425 6426 6427 6428 6429 6420 6421 6422 6423 6424 6425 6426 6427 6428 6429 6430 6431 6432 6433 6434 6435 6436 6437 6438 6439 6430 6431 6432 6433 6434 6435 6436 6437 6438 6439 6440 6441 6442 6443 6444 6445 6446 6447 6448 6449 6440 6441 6442 6443 6444 6445 6446 6447 6448 6449 6450 6451 6452 6453 6454 6455 6456 6457 6458 6459 6450 6451 6452 6453 6454 6455 6456 6457 6458 6459 6460 6461 6462 6463 6464 6465 6466 6467 6468 6469 6460 6461 6462 6463 6464 6465 6466 6467 6468 6469 6470 6471 6472 6473 6474 6475 6476 6477 6478 6479 6470 6471 6472 6473 6474 6475 6476 6477 6478 6479 6480 6481 6482 6483 6484 6485 6486 6487 6488 6489 6480 6481 6482 6483 6484 6485 6486 6487 6488 6489 6490 6491 6492 6493 6494 6495 6496 6497 6498 6499 6490 6491 6492 6493 6494 6495 6496 6497 6498 6499 6500 6501 6502 6503 6504 6505 6506 6507 6508 6509 6500 6501 6502 6503 6504 6505 6506 6507 6508 6509 6510 6511 6512 6513 6514 6515 6516 6517 6518 6519 6510 6511 6512 6513 6514 6515 6516 6517 6518 6519 6520 6521 6522 6523 6524 6525 6526 6527 6528 6529 6520 6521 6522 6523 6524 6525 6526 6527 6528 6529 6530 6531 6532 6533 6534 6535 6536 6537 6538 6539 6530 6531 6532 6533 6534 6535 6536 6537 6538 6539 6540 6541 6542 6543 6544 6545 6546 6547 6548 6549 6540 6541 6542 6543 6544 6545 6546 6547 6548 6549 6550 6551 6552 6553 6554 6555 6556 6557 6558 6559 6550 6551 6552 6553 6554 6555 6556 6557 6558 6559 6560 6561 6562 6563 6564 6565 6566 6567 6568 6569 6560 6561 6562 6563 6564 6565 6566 6567 6568 6569 6570 6571 6572 6573 6574 6575 6576 6577 6578 6579 6570 6571 6572 6573 6574 6575 6576 6577 6578 6579 6580 6581 6582 6583 6584 6585 6586 6587 6588 6589 6580 6581 6582 6583 6584 6585 6586 6587 6588 6589 6590 6591 6592 6593 6594 6595 6596 6597 6598 6599 6590 659	

Page 6	Page 8
<p>1 (WHEREUPON, certain documents were 2 marked Miller Deposition Exhibit 3 Nos. 1 through 4, for identification, 4 as of 06/04/2019.)</p> <p>5 THE VIDEOGRAPHER: We are now on the record. My 6 name is Ben Stanson. I am a videographer for Golkow 7 Litigation Services.</p> <p>8 Today's date is June 4th, 2019, and the 9 time is 10:22 a.m.</p> <p>10 This video deposition is being held in 11 Madison, Wisconsin in the matter of the National 12 Prescription Opiate Litigation MDL No. 2804, pending 13 in the US District Court, Northern District of Ohio, 14 Eastern Division.</p> <p>15 Are the -- the deponent is Michael Miller. 16 Will counsel please identify yourselves 17 for the record.</p> <p>18 MS. DICKINSON: Erin Dickinson and Don Arbitblit 19 for the Plaintiffs.</p> <p>20 MS. HIBBERT: Kelly Hibbert from Reed Smith on 21 behalf -- half of AmerisourceBergen Drug Corporation.</p> <p>22 THE VIDEOGRAPHER: Counsel on the phone, if you 23 could announce yourselves for the record.</p> <p>24 MR. Snyder: This is Ryan Snyder from O'Melveny</p>	<p>1 A. I have not. 2 Q. Okay. Can you confirm your home address 3 for me, please? 4 MS. HIBBERT: Objection. That's calling for 5 private information. 6 Does Dr. Miller list his address, his 7 professional address, on his CV? I'm sure he does. 8 Is that not sufficient, Counsel? 9 MS. DICKINSON: It just is an easier way of 10 getting to the question. I'm -- I'm unaware of ever 11 having this be an issue. 12 BY MS. DICKINSON: 13 Q. What's your home address? 14 MS. HIBBERT: How about a professional address? 15 That should be sufficient. 16 MS. DICKINSON: Are you really instructing him 17 not to answer the question of where he lives? 18 MS. HIBBERT: Yes. A professional address 19 should be sufficient. 20 MS. DICKINSON: Okay. Well, we'll have to deal 21 with that issue, too, as well, apparently. 22 BY MS. DICKINSON: 23 Q. What city do you live in, Dr. Miller? 24 A. Madison.</p>
<p style="text-align: center;">Page 7</p> <p>1 & Myers on behalf of Johnson & Johnson and Janssen. 2 MS. HADAGHIAN: This is Negin Hadaghian from 3 Dechert LLP on behalf of the Purdue Defendants. 4 MS. NOWAK: This is Darlene Nowak from Marcus & 5 Shapira on behalf of HBC Services. 6 THE VIDEOGRAPHER: Thank you. 7 Our court reporter is Juliana Zajicek. 8 Will you please swear in the witness. 9 (WHEREUPON, the witness was duly 10 sworn.) 11 MICHAEL M. MILLER, M.D., 12 called as a witness herein, having been first duly 13 sworn, was examined and testified as follows: 14 EXAMINATION 15 BY MS. DICKINSON: 16 Q. Good morning, Dr. Miller. Could you state 17 your full name for the record, please? 18 A. Yes. Michael M. Miller, M.D. 19 Q. Okay. Dr. Miller, we have just met a few 20 minutes ago, correct? 21 A. Yes. 22 Q. I -- can you state for the record whether 23 you've ever been known by any other name other than 24 Michael M. Miller?</p>	<p style="text-align: center;">Page 9</p> <p>1 Q. Okay. How long have you lived in Madison? 2 A. 30 years. 3 Q. Okay. Have you lived anywhere else in the 4 last 30 years? 5 A. No. 6 Q. Okay. And what is your business address 7 currently? 8 A. It depends on which business you speak of. 9 So I have a -- a private practice that's located at 10 6333 Odana Road, Suite 3, Madison 53719. 11 Q. Okay. And do you have any other business 12 addresses currently other than the Odana Road address? 13 A. I use as my business address the address 14 of my LLC, which is 22 Settler Hill Circle in Madison 15 53717. 16 Q. And which LLC is that that uses that 17 address? 18 A. It is entitled Michael M. Miller, M.D., 19 Consulting LLC. 20 Q. Okay. Are you still practicing medicine 21 today? 22 A. I do. 23 Q. And where do you practice medicine? 24 A. I practice in three locations.</p>

<p>1 Q. Okay. What are those?</p> <p>2 A. I have a halftime teaching position at the</p> <p>3 University of Wisconsin. So I teach addiction</p> <p>4 medicine fellows and see patients with them. And we</p> <p>5 also work at Access Community Health Center one</p> <p>6 afternoon a week seeing outpatients. I have a 12-hour</p> <p>7 week position with Rock County Department of Human</p> <p>8 Services in their therapeutic court services area. So</p> <p>9 that's a drug court and an OWI court, and that is at</p> <p>10 303 West Court Street in Janesville, Wisconsin. So,</p> <p>11 again, that's 12 hours a week.</p> <p>12 My private practice is a practice of not</p> <p>13 more than ten patients. Right now I think I have a</p> <p>14 census of seven. They are all licensed professionals.</p> <p>15 I think I have one attorney out of that bunch, but the</p> <p>16 rest are physicians, nurses, pharmacists, dentists,</p> <p>17 therapists, psychologists who have addiction issues</p> <p>18 and are being monitored. And so that's the Odana Road</p> <p>19 address.</p> <p>20 Those are the three locations where I see</p> <p>21 patients.</p> <p>22 Q. Okay. When you said halftime position at</p> <p>23 UW, how many hours a week do you spend teaching at UW?</p> <p>24 A. 20.</p>	<p>Page 10</p> <p>1 my foot and it is very uncomfortable. So let me try</p> <p>2 to undo.</p> <p>3 Q. Of course.</p> <p>4 A. There we go. So -- pardon me.</p> <p>5 So -- and actually, I coined the term, our</p> <p>6 state health plan is called "Healthiest</p> <p>7 Wisconsin 2000" and "Healthiest Wisconsin 2010." And</p> <p>8 so I -- the CV would have the actual titles. I worked</p> <p>9 on the addiction committee or subcommittee or</p> <p>10 something like that with one addition, and I was on</p> <p>11 the steering committee for the overall health plan, I</p> <p>12 think for the second one, which was the 2010 health</p> <p>13 plan. So these were volunteer things that I did.</p> <p>14 Q. Okay. I thought I saw in your CV, have</p> <p>15 you also taught at the School of Public Health at UW?</p> <p>16 A. The -- the sch -- the medical school</p> <p>17 changed its name to the School of Medicine and Public</p> <p>18 Health. So it's the medical school and the public</p> <p>19 health school all blended into one. They now</p> <p>20 encourage students to spend five years and get an MPH</p> <p>21 while they get their M.D.s, but there is -- there is</p> <p>22 not a separate public health school in Madison.</p> <p>23 Q. In your halftime position teaching at UW,</p> <p>24 do you teach the MPH students as well as the medical</p>
<p>Page 11</p> <p>1 Q. Dr. Miller, how many years have you worked</p> <p>2 in the area of addiction medicine?</p> <p>3 A. I generally date it to the beginning of my</p> <p>4 fellowship because I worked in addiction in the -- in</p> <p>5 my fellowship, but I've been in practice, done with</p> <p>6 training since 1983.</p> <p>7 Q. Okay. Ooh, math is not my strong point.</p> <p>8 How many years is that?</p> <p>9 A. That's 36.</p> <p>10 Q. Have you alls -- also worked in the field</p> <p>11 of public health?</p> <p>12 A. I am not a public health professional, but</p> <p>13 I have worked in that area. I could describe.</p> <p>14 Q. Okay. Can you just briefly describe your</p> <p>15 work in the area of public health?</p> <p>16 A. Right. Well, currently I am the</p> <p>17 chair-elect and as of next week will be the chair of</p> <p>18 the American Medical Association Council on Science</p> <p>19 and Public Health where we assist the AMA to develop</p> <p>20 policy on public health. In Wisconsin I was a</p> <p>21 volunteer consultant to the Division of Public Health</p> <p>22 in its development of the 20 -- or I'm sorry -- the</p> <p>23 2000 and 2010 state health plans.</p> <p>24 Excuse me. I've got a cord that's around</p>	<p>Page 13</p> <p>1 students?</p> <p>2 A. Actually, the preventive medicine</p> <p>3 residency involves physicians who get an MPH during</p> <p>4 their two-year preventive medicine residency placement</p> <p>5 here, and I'm teaching one of their students now.</p> <p>6 Q. Okay. Have you in the course of your</p> <p>7 experience sat on any opioid task forces?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Which ones?</p> <p>10 A. One for the Wisconsin Medical Society,</p> <p>11 which I think is called Opioid Task Force, one for</p> <p>12 Dane County, and that particular task force has</p> <p>13 several subgroups and one is a health professionals</p> <p>14 group and that's the one I sit on, which is</p> <p>15 extraordinarily interesting, and I'm currently</p> <p>16 co-chair of that group. And the staff for that group</p> <p>17 is a wonderful organization called Safe Communities of</p> <p>18 Madison and Dane County. We have a merged city/county</p> <p>19 health department. So I -- I don't know how that task</p> <p>20 force brands itself as a county/city or city/county.</p> <p>21 Q. Okay. And is -- is it fair to say that</p> <p>22 all of those task forces were formed to address the</p> <p>23 opioid epidemic? Is that a fair characterization of</p> <p>24 the purpose of those task forces?</p>

<p style="text-align: right;">Page 14</p> <p>1 MS. HIBBERT: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. The -- I would not respond in that way. I 4 would say that the Wisconsin Medical Society task 5 force was developed to assist practicing physicians in 6 improving their practice with regard to opioid 7 prescribing. And the changes in opioid prescribing 8 and the adverse effects of prescribing were part of 9 the impetus to create that.</p> <p>10 The Dane County task force came out of an 11 initiative concerned about overdose deaths in our 12 county, yes, ma'am.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Dr. Miller, is there an opioid epidemic in 15 the United States today?</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. People use that term, but I say there are 19 several.</p> <p>20 BY MS. DICKINSON:</p> <p>21 Q. Okay. Is there one today?</p> <p>22 MS. HIBBERT: Objection to form, asked and 23 answered.</p> <p>24 BY THE WITNESS:</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Okay. And you and I have obviously not 2 met before today, is that right?</p> <p>3 A. That's right.</p> <p>4 Q. Okay. And you are here today offering 5 testimony on behor -- behalf of AmerisourceBergen Drug 6 Corporation, is that right?</p> <p>7 A. I didn't know the word "drug" was in the 8 title until I just heard it this morning.</p> <p>9 Q. Okay. You have -- you are here giving 10 testimony on behalf of the company that is referred to 11 as AmerisourceBergen, is that fair?</p> <p>12 A. That's very fair.</p> <p>13 Q. Okay. Who is AmerisourceBergen Drug 14 Corporation?</p> <p>15 MS. HIBBERT: Objection to form, calls for 16 speculation.</p> <p>17 BY THE WITNESS:</p> <p>18 A. Yeah...</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. What's your understanding of what the 21 company is that you are providing testimony on behalf 22 of?</p> <p>23 A. I have not looked at their SEC filings or 24 their website to know what all they are, but one of</p>
<p style="text-align: right;">Page 15</p> <p>1 A. An epidemic related to opioids, yes, 2 definitely.</p> <p>3 BY MS. DICKINSON:</p> <p>4 Q. Is there an opioid epidemic in Wisconsin 5 today?</p> <p>6 MS. HIBBERT: Objection to form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. There certainly is an epidemic of overdose 9 deaths in Wisconsin today.</p> <p>10 BY MS. DICKINSON:</p> <p>11 Q. Dr. Miller, you understand that you are 12 here giving testimony in the multidistrict litigation. 13 It's called the In Re Prescription Opioid Litigation, 14 is that right?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. Okay. You understand that I represent 17 some of the communities' plaintiffs in that 18 litigation.</p> <p>19 Is that your understanding?</p> <p>20 MS. HIBBERT: Objection to form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. I'm -- you are -- you are informing me of 23 such, I'll accept that.</p> <p>24 BY MS. DICKINSON:</p>	<p style="text-align: right;">Page 17</p> <p>1 the things they do is they serve as one of the major 2 distributors of pharmaceuticals to retail pharmacies 3 and hospitals in the United States.</p> <p>4 Q. And are they one of the major distributors 5 of prescription opioids?</p> <p>6 A. I haven't --</p> <p>7 MS. HIBBERT: Objection to form, calls for 8 speculation.</p> <p>9 BY THE WITNESS:</p> <p>10 A. Yes, I have no idea. I honestly have no 11 idea.</p> <p>12 BY MS. DICKINSON:</p> <p>13 Q. You don't know?</p> <p>14 A. I don't know the -- I don't know their 15 market share for opioids. That was the form of your 16 question. I have no idea.</p> <p>17 Q. Okay. You mentioned in your report that 18 your opinions may be offered on behalf of certain 19 other distributor defendants in this consolidated 20 action.</p> <p>21 Which ones?</p> <p>22 A. I don't recall, and that's a very honest 23 answer.</p> <p>24 Q. Have you been retained by any other</p>

<p style="text-align: right;">Page 18</p> <p>1 company to provide expert witness testimony in this 2 matter?</p> <p>3 A. I will give the answer to the best of my 4 ability. I believe that there is a joint defense 5 agreement. I don't think I signed anything.</p> <p>6 Q. Are you aware --</p> <p>7 A. But I agreed -- I agreed to be a part of a 8 joint defense process because that was considered to 9 be something that several defendants wanted to do.</p> <p>10 MS. HIBBERT: And, Counsel, first I'll advise 11 the witness and instruct the witness not to disclose 12 any communications that have taken place with any of 13 the attorneys involved in this matter.</p> <p>14 And, Counsel, for the record, I will 15 represent the specific defendants that have adopted 16 Dr. Miller's opinions set forth in his report are 17 disclosed in the certain disclosures submitted with 18 those defendants' expert reports. And for the record, 19 I believe the distributor defendants referenced in 20 Dr. Miller's report are Cardinal and McKesson.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Dr. Miller, were you aware before sitting 23 here today listening to what counsel just said on the 24 record that you were offering opinions regarding</p>	<p style="text-align: right;">Page 20</p> <p>1 as Exhibit 1 to your deposition.</p> <p>2 Have you ever seen this document?</p> <p>3 A. A copy of it, yes.</p> <p>4 Q. Okay. When did you first receive a copy 5 of Exhibit 1?</p> <p>6 A. Oh, let me think. It's dated May 21, so 7 it's been within the last two weeks.</p> <p>8 Q. Okay. You don't recall other than within 9 the last two weeks more specifically when you were 10 given a copy of Exhibit 1?</p> <p>11 A. No, ma'am. I would say it was closer to 12 May 21 than -- than it is to today.</p> <p>13 Q. Okay. And can you turn to the last 14 page of Exhibit 1, please. The last page of Exhibit 1 15 has a title "Exhibit A."</p> <p>16 Do you see that?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. Okay. And Exhibit A requests that the 19 deponent bring a number of materials. There are three 20 items listed there.</p> <p>21 Do you see that?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Did you review these items at the time you 24 received Exhibit 1?</p>
<p style="text-align: right;">Page 19</p> <p>1 Cardinal and McKesson?</p> <p>2 A. Yes, I'm offering -- I'm offering opinions 3 on behalf of more than one distributor defendant in 4 this litigation.</p> <p>5 Q. Okay. And are you aware that your -- your 6 report does not specifically refer to other 7 distributor defendants by name?</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. I don't believe my report lists them by 11 name.</p> <p>12 BY MS. DICKINSON:</p> <p>13 Q. Okay. Is it your understanding that 14 you've been retained by the AmerisourceBergen Drug 15 company to offer expert testimony in this case?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Have you signed a retainer 18 agreement with any other defendant in the case?</p> <p>19 MS. HIBBERT: Objection to form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. Not that I recall.</p> <p>22 BY MS. DICKINSON:</p> <p>23 Q. Let's do a little housekeeping first. 24 I'm going to hand you what's been marked</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Since then I have, yes.</p> <p>2 Q. Okay. In Item 1 requests: "All documents 3 or other materials you reviewed since the date of your 4 report that you did not specifically identify in your 5 report in preparation for your testimony today."</p> <p>6 Are there items responsive to Question 1?</p> <p>7 A. Yes.</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 Give me a pause to put an objection on the 10 record before you answer, okay.</p> <p>11 THE WITNESS: Okay.</p> <p>12 BY MS. DICKINSON:</p> <p>13 Q. And what are those items?</p> <p>14 A. There were several additional journal 15 articles and I did not bring the list with me and I 16 have seen the document that responded to this request 17 or demand.</p> <p>18 Q. I'm going to hand you what's been marked 19 as Plaintiffs' Exhibit 4 -- or Miller Exhibit 4.</p> <p>20 Are -- is Miller Exhibit 4 a list of the 21 materials that you have reviewed since the time of 22 preparing your report?</p> <p>23 A. That were not specifically listed in my 24 report at the time, yes.</p>

Page 22	Page 24
<p>1 Q. Okay. Item 2 on this list is an --</p> <p>2 requests: "An itemization of hours spent, and</p> <p>3 compensated pay" -- "compensation paid, or to be paid,</p> <p>4 for your work in this matter and your staff's work in</p> <p>5 this matter, including all invoices you have submitted</p> <p>6 to counsel."</p> <p>7 Do you see that?</p> <p>8 A. Yes, ma'am.</p> <p>9 MS. HIBBERT: Objection to form.</p> <p>10 THE WITNESS: Oh, I'm sorry.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. Did you bring an itemization of the hours</p> <p>13 you've spent to date including all of your invoices</p> <p>14 that you have submitted to counsel with you today?</p> <p>15 MS. HIBBERT: Objection, as previously discussed</p> <p>16 off the record, but for the record we have submitted</p> <p>17 our objections to this request including the format in</p> <p>18 which these requests were made, being a Notice of</p> <p>19 Deposition as opposed to a Rule 45 subpoena. The</p> <p>20 issue is under consideration by the Special Master.</p> <p>21 There has been recent correspondence, as recent as</p> <p>22 Sunday on this, if not Monday morning, and we are</p> <p>23 still awaiting guidance from Special Master Cohen as</p> <p>24 to the specifics as to what indeed needs to be</p>	<p>1 BY MS. DICKINSON:</p> <p>2 Q. Okay. Do any of the detail in the</p> <p>3 mount -- monthly invoices summarize actual</p> <p>4 conversations or the substance of conversations</p> <p>5 between you and counsel to your knowledge?</p> <p>6 MS. HIBBERT: Objection to form, calls for a</p> <p>7 legal conclusion that Dr. Miller is not qualified to</p> <p>8 provide.</p> <p>9 But to the extent that you can answer with</p> <p>10 that qualification, Dr. Miller, please do.</p> <p>11 BY THE WITNESS:</p> <p>12 A. I'm going to read her question, if I may.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. I'll just ask it maybe a little more</p> <p>15 simply, Dr. Miller.</p> <p>16 Do any of the detail in your invoices</p> <p>17 summarize the actual substance of what you may have</p> <p>18 discussed with counsel in this case?</p> <p>19 MS. HIBBERT: Objection to form. Again, calls</p> <p>20 for a legal conclusion. Without those invoices in</p> <p>21 front of him, I think it's pretty impossible for him</p> <p>22 to say whether or not every single itemized narrative</p> <p>23 description may include information pertaining to</p> <p>24 conversations with counsel in this case.</p>
<p>1 produced. And as I specified in my e-mail to counsel</p> <p>2 last night, Mr. -- sorry -- Dr. Miller is prepared to</p> <p>3 testify here today about the number of hours spent and</p> <p>4 invoiced in this matter. And -- and the amount of</p> <p>5 monies invoiced in this matter as well.</p> <p>6 MS. DICKINSON: So for the record, nothing is</p> <p>7 being produced with respect to Request No. 2,</p> <p>8 including redacted invoices that would show the number</p> <p>9 of hours spent and the total amount, is that correct,</p> <p>10 Counsel?</p> <p>11 MS. HIBBERT: Nothing has been produced at this</p> <p>12 time.</p> <p>13 MS. DICKINSON: Okay.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. Dr. Miller, do you keep an itemization of</p> <p>16 yours hours and time spent in this case?</p> <p>17 A. I do.</p> <p>18 Q. Okay. Do you submit it to counsel?</p> <p>19 A. I do.</p> <p>20 Q. Okay. And is that in the form of a</p> <p>21 monthly invoice?</p> <p>22 MS. HIBBERT: Objection to form.</p> <p>23 BY THE WITNESS:</p> <p>24 A. It is.</p>	<p>1 Dr. Miller, again, to the extent that you</p> <p>2 can answer with that qualification and instruction,</p> <p>3 please do.</p> <p>4 MS. DICKINSON: And I'm going to object --</p> <p>5 object to the speaking objections. If you have an</p> <p>6 objection to form, that's fine. If you are going to</p> <p>7 instruct him not to answer, that's fine. But beyond</p> <p>8 that, you are coaching the witness.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. So could you --</p> <p>11 MS. HIBBERT: If you're going to --</p> <p>12 BY MS. DICKINSON:</p> <p>13 Q. -- answer to the best of your ability,</p> <p>14 Dr. Miller?</p> <p>15 MS. HIBBERT: If you are going to delve into</p> <p>16 privileged communications with Dr. Miller in this</p> <p>17 case --</p> <p>18 MS. DICKINSON: I am actually not asking him</p> <p>19 that. I'm asking whether they do contain such</p> <p>20 communications.</p> <p>21 MS. HIBBERT: You're asking him for a legal</p> <p>22 conclusion which is improper.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. I am not asking you the substance of the</p>

<p style="text-align: right;">Page 26</p> <p>1 conversation, okay? I'm asking whether your invoices 2 record substance of conversations or just something 3 else?</p> <p>4 MS. HIBBERT: Objection to form, calls for a 5 legal conclusion.</p> <p>6 BY THE WITNESS:</p> <p>7 A. They do not have anything on the substance 8 of conversations.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay. And Item 3 is a copy -- requests a 11 copy of your most current and accurate curriculum 12 vitae. I am going to hand you what has been marked as 13 Exhibit 3.</p> <p>14 Exhibit 3 is what was provided to us by 15 counsel as an updated version of your curriculum 16 vitae.</p> <p>17 Does that look like an updated version of 18 your curriculum vitae?</p> <p>19 MS. HIBBERT: Objection to form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. It does, and if I may, it also lists two 22 talks I'm about to give that I haven't given yet.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. Okay. We are going to cover that in just</p>	<p style="text-align: right;">Page 28</p> <p>1 fair?</p> <p>2 A. Right. There was slight revisions. I 3 revise it a few times a month as things come along. 4 And the what -- and what -- and the exhibit you gave 5 me before is a more up-to-date version, but very 6 little difference than what's in the report.</p> <p>7 Q. That was going to be my next question.</p> <p>8 Is Exhibit A the updated version of the CV 9 that was produced on May 10th?</p> <p>10 A. No, no, no.</p> <p>11 Q. Exhibit 3?</p> <p>12 A. Please restate your question.</p> <p>13 Q. Is Exhibit -- what I handed you as 14 Exhibit 3, is that the updated version of your CV that 15 is included in Exhibit 2?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Tell -- could you tell me on 18 Exhibit 3 what was added, that might make the day 19 shorter, to -- if you know?</p> <p>20 A. Oh, my goodness. I'm trying to recall any 21 updates since May 10 in areas other than additional 22 professional presentations, and I would say end dates 23 of certain committee involvements.</p> <p>24 Q. Okay.</p>
<p style="text-align: right;">Page 27</p> <p>1 a moment. Let me do one more housekeeping matter 2 before we do.</p> <p>3 I'm going to hand you what has been marked 4 as Miller 2.</p> <p>5 A. Oh, yes.</p> <p>6 Q. Can you reach? There you go.</p> <p>7 Dr. Miller, I've handed you what has been 8 marked as Miller Exhibit 2. I'll represent to you 9 that that is the report that was provided to us by 10 counsel on May 10th.</p> <p>11 Does that look correct to you?</p> <p>12 MS. HIBBERT: Objection to form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. It looks right to me.</p> <p>15 BY MS. DICKINSON:</p> <p>16 Q. Okay. It is dated May 10th on the front 17 cover, is that right?</p> <p>18 A. It is.</p> <p>19 Q. Okay. And Exhibit 2 has two appendices to 20 it, is that correct?</p> <p>21 A. That is correct.</p> <p>22 Q. Okay. And Appendix A that was attached to 23 what was produced to Plaintiffs on May 10th, 2019, 24 looks to be a copy of your curriculum vitae, is that</p>	<p style="text-align: right;">Page 29</p> <p>1 A. I know that my -- I can speak to one 2 specific fact, if you really want to know. Meriter 3 Hospital is a hospital where I joined the medical 4 staff in 1989. I was on the active staff for 5 21-and-a-half years and served as a medical director 6 of their addiction services. I have remained on their 7 medical staff in different capacities since April 8 of 1989. And as of June 1 I relinquished my 9 consulting privileges and am now considered a member 10 of the honorary medical staff as a retiree. So this 11 is the year I'm transitioning into retirement. And 12 what that means is that I don't pay dues anymore for 13 the next -- for the next dues year.</p> <p>14 Q. And is that change noted on your current 15 CV that -- which is marked as Exhibit 3?</p> <p>16 A. Yes. If you were to painstakingly go 17 through and compare them line by line, you would see 18 that the one in Exhibit 2 says I am on the medical 19 staff and the one in Exhibit 3 says I switched to 20 honorary status as of three days ago.</p> <p>21 Q. That was three days ago. That's what I'm 22 trying to avoid is to painstakingly walk through and 23 figure out what's new.</p> <p>24 So if you can, can you identify anything</p>

<p style="text-align: right;">Page 30</p> <p>1 else that was added since May 10th to the best of your 2 ability on Exhibit 3?</p> <p>3 A. I -- I honestly can't recall.</p> <p>4 Q. Fair enough.</p> <p>5 I think you testified, I just want to be 6 clear for the record, that you may have added a few 7 presentations to Exhibit 3 that are new since 8 May 10th, is that fair?</p> <p>9 A. Um-hum.</p> <p>10 Q. Okay.</p> <p>11 Other than presentations as you are 12 sitting here today and the job that we just talked 13 about at Meriter, you can't recall any other additions 14 to Exhibit 3 that would have been additional since 15 May 10th?</p> <p>16 A. May I reference the documents?</p> <p>17 Q. Of course.</p> <p>18 A. Okay.Oops.</p> <p>19 THE WITNESS: Thank you.</p> <p>20 MS. HIBBERT: You're welcome.</p> <p>21 BY THE WITNESS:</p> <p>22 A. I looked at what I was looking for and 23 some of the updates were, in fact, done by May 10 and 24 so the newer one reflects nothing newer.</p>	<p style="text-align: right;">Page 32</p> <p>1 professional liability case and I -- I've been deposed 2 in other cases and the one thing that I can tell you 3 is that I think my professional life in general and 4 days like today in specific would have been better if 5 I had kept detailed records of every legal thing I 6 ever did since day one. And I never actually kept a 7 tally or a spreadsheet -- or a flow sheet. So I'm 8 relying on my memory.</p> <p>9 I've been involved in legal cases, but I 10 don't have a recollection of being formally deposed 11 except that most recent one. I believe I've been 12 deposed as a fact witness somewhere, but never as an 13 expert until today.</p> <p>14 Q. Okay. You actually guessed one of my 15 questions.</p> <p>16 Okay. Doctor, you testified that you may 17 have been deposed in a professional liability case. 18 What case was that?</p> <p>19 A. I cannot give you the name, but I can tell 20 you something about it.</p> <p>21 Q. Okay. Can you tell me something about it?</p> <p>22 A. Yes. When I was working as medical 23 director of the Herrington, with an E, Recovery Center 24 at Rogers Memorial Hospital, now rebranded as Rogers</p>
<p style="text-align: right;">Page 31</p> <p>1 BY MS. DICKINSON:</p> <p>2 Q. Okay. Exhibit 3, is that your most 3 current curriculum vitae?</p> <p>4 A. It is.</p> <p>5 Q. Okay. To the best of your ability, does 6 Exhibit 3 accurately summarize your work and 7 professional history?</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. Yes.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. Dr. Miller, I forgot to ask you this, but 13 have you ever been deposed before?</p> <p>14 A. I have.</p> <p>15 Q. Okay. How many times?</p> <p>16 A. My memory on that is really not as good as 17 it should be. I've reflected on this obviously in 18 preparation for today. And I -- I think in terms of 19 court reporters and videos and things like that, and 20 there have been a number of times that I've been in 21 that scenario, but I don't know if those were all 22 depositions. I'm trying to figure it out.</p> <p>23 Q. Okay.</p> <p>24 A. I know that I was deposed in a</p>	<p style="text-align: right;">Page 33</p> <p>1 Behavioral Health, there was a patient who died while 2 in residential treatment. The estate filed an action 3 against various parties, including the hospital, 4 various employees, and at least two physicians, one of 5 whom was the attending physician and one of whom was 6 myself as the medical director. We were originally 7 named in the litigation and in the middle of the 8 process -- or in the midst of the process I was 9 removed from the case.</p> <p>10 Q. Were you removed from the case through a 11 settlement?</p> <p>12 A. No.</p> <p>13 Q. How were you removed from the case?</p> <p>14 A. The plaintiffs decided to not pursue that 15 line of litigation.</p> <p>16 Q. Okay. And you think you gave a 17 deposition, much like we are doing today in that case?</p> <p>18 A. Oh, I know I did.</p> <p>19 Q. Okay. It sounds like it was not a 20 pleasant memory.</p> <p>21 A. No, I -- quite frankly, I am really 22 impressed by the whole process and the -- the way 23 attorneys are and the way it's done. I mean, I used 24 to be a high school drama coach and I just -- I just</p>

<p style="text-align: right;">Page 34</p> <p>1 think it's fascinating and -- and the preparation you 2 folks do. So, no, I -- it was -- I was cool with it. 3 Q. That is much kinder than most people that 4 are sitting in your chair, so I do appreciate it. 5 That is not usually people's reaction to a deposition, 6 but okay.</p> <p>7 Did you testify at the trial in that case 8 or a trial in that case?</p> <p>9 A. I did not.</p> <p>10 Q. Okay. What year was that case in? 11 A. I believe it was 2016.</p> <p>12 Q. Did you treat the patient that was in that 13 case or were you just sued as -- in your capacity as 14 the medical director?</p> <p>15 A. That requires more specificity.</p> <p>16 Q. Were you a treating physician of the 17 patient who died?</p> <p>18 A. I was not his attending physician.</p> <p>19 Q. Okay. Had you treated him, though, at 20 all, as other than a non-attending?</p> <p>21 A. I had seen him as a consultant.</p> <p>22 Q. Okay. Do you know how many times you had 23 seen him as a consultant?</p> <p>24 A. Actually, I'd like to restate my answer.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. Yes, ma'am. 2 Q. If at any time during the course of the 3 deposition you don't understand the question I'm 4 asking you, please ask me to rephrase, okay. I will 5 assume that if you are answering the question you've 6 understood the question I'm asking.</p> <p>7 Okay?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. All right. Fair.</p> <p>10 You are doing a very nice job of it so 11 far, so I'll give you a compliment. You gave lawyers 12 a compliment. I will give you a compliment.</p> <p>13 You said a minute ago that you had never 14 given a deposition as an expert witness, is that 15 correct?</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I can't swear that I haven't, but I can't 19 recall a specific one.</p> <p>20 BY MS. DICKINSON:</p> <p>21 Q. Okay. Have you ever served as an expert 22 witness before?</p> <p>23 MS. HIBBERT: Objection to form to the extent 24 the question is asking for information about any</p>
<p style="text-align: right;">Page 35</p> <p>1 I saw him as -- as a covering physician. The day I 2 met the individual, the deceased, I had not done a 3 consult formally. That was the first to sit down with 4 the individual and his physician was out of the 5 building and I saw the individual hours before the 6 demise. And so because I had had a clinical 7 interaction and charted on it, I was -- I was in the 8 chart.</p> <p>9 Q. You are doing a really nice job. I 10 actually -- one other thing I forgot was to go through 11 some basic ground rules of a deposition. Since you've 12 given one, this is going to be fairly easy.</p> <p>13 The court reporter is here taking down 14 everything we say. We can't talk over each other. 15 We'll do our best. Is that okay?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. You are doing a nice job of answering 18 verbally instead of "uh-huhs," "uhn-uhns," saying 19 "yes" or "no," but that is a way that this record can 20 be clean. So we'll try to do that. I'll try to 21 remind you if you don't, okay?</p> <p>22 A. That's fine.</p> <p>23 Q. All right. You understand that you are 24 under oath today, correct?</p>	<p style="text-align: right;">Page 37</p> <p>1 expert retentions in cases in which Dr. Miller was not 2 disclosed as an expert.</p> <p>3 If you can answer, Dr. Miller, go ahead.</p> <p>4 BY MS. DICKINSON:</p> <p>5 Q. Dr. Miller, have you ever been hired as an 6 expert witness before?</p> <p>7 MS. HIBBERT: Same objection.</p> <p>8 BY THE WITNESS:</p> <p>9 A. That's --</p> <p>10 MS. HIBBERT: I'll -- I'll instruct not to 11 answer as to any cases in which you were hired as an 12 expert witness and not disclosed, the specifics of 13 those, okay.</p> <p>14 BY THE WITNESS:</p> <p>15 A. Ms. Dickinson, I believe I've just been 16 instructed by counsel not to answer.</p> <p>17 BY MS. DICKINSON:</p> <p>18 Q. Okay. Dr. Miller, just so we are clear 19 and -- and the record is clear, I'm not asking you to 20 disclose which cases or for who. I'm just asking 21 whether you have been hired as an expert witness 22 before. So please don't answer beyond the question of 23 have you been hired as an expert witness before.</p> <p>24 But have you been hired as an expert</p>

Page 38	Page 40
<p>1 witness before?</p> <p>2 A. I will answer that by saying I've been</p> <p>3 asked to provide expert witness services to law firms</p> <p>4 in the past.</p> <p>5 Q. Okay. On how many occasions?</p> <p>6 A. Four for which I have a clear memory and I</p> <p>7 would think a couple more.</p> <p>8 Q. Is it fair to say somewhere between four</p> <p>9 and ten?</p> <p>10 MS. HIBBERT: Objection to form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. I would say as an expert witness below ten</p> <p>13 is the definite correct answer.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. When was the last time before this case</p> <p>16 that you were hired as an expert witness?</p> <p>17 A. One of two cases, and I can speak to</p> <p>18 either. I don't recall the sequence.</p> <p>19 Q. Okay. Those two cases, roughly when was</p> <p>20 the last -- when was that time that you were hired as</p> <p>21 an expert witness? I'm just trying to get a sense of</p> <p>22 when the last time you served as an expert or were</p> <p>23 hired as one before this case.</p> <p>24 A. I think those would both be in the</p>	<p>1 And, Counsel, I'm not trying to coach the</p> <p>2 witness in any way. If you want to say the same thing</p> <p>3 in your question, that's fine, too.</p> <p>4 A. I --</p> <p>5 MS. HIBBERT: Dr. Miller, just let me finish</p> <p>6 real quick.</p> <p>7 I'm not trying to coach the witness. I</p> <p>8 just want to make sure that we are protecting any</p> <p>9 confidential communications with any other attorneys,</p> <p>10 okay.</p> <p>11 Go ahead, Doctor.</p> <p>12 BY THE WITNESS:</p> <p>13 A. I attest, I'm not being coached because</p> <p>14 I've figured this out myself. Anything to do with</p> <p>15 opioids, yes.</p> <p>16 BY MS. DICKINSON:</p> <p>17 Q. And in that instance who approached you</p> <p>18 about serving as an expert witness?</p> <p>19 MS. HIBBERT: Objection to form.</p> <p>20 I'll instruct you not to answer that</p> <p>21 question. That's getting -- that's crossing the line</p> <p>22 as to --</p> <p>23 MS. DICKINSON: Counsel, unless it is someone he</p> <p>24 has a current retainer agreement, I -- I don't</p>
Page 39	Page 41
<p>1 vicinity of four to eight years ago.</p> <p>2 Q. Have you ever discussed serving as an</p> <p>3 expert witness with a set of lawyers where you decided</p> <p>4 not to serve as an expert?</p> <p>5 MS. HIBBERT: Objection to form. Again, with</p> <p>6 the qualification as to she is not asking about the</p> <p>7 specifics of those conversations, just yes or no.</p> <p>8 BY THE WITNESS:</p> <p>9 A. Yes.</p> <p>10 BY MS. DICKINSON:</p> <p>11 Q. How many times?</p> <p>12 A. Less than six.</p> <p>13 Q. Okay. When was the last time that you</p> <p>14 were asked to serve as an expert but declined to do</p> <p>15 so?</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. Within the last 60 days.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. And was that case about -- had -- did that</p> <p>21 case have anything to do with opioids?</p> <p>22 MS. HIBBERT: Objection to form. Again, not</p> <p>23 asking for anything more specific than yes or no</p> <p>24 there.</p>	<p>1 understand how any of that is protected. We've asked</p> <p>2 and been given testimony on this in every case. If --</p> <p>3 prior to a retainer letter, there is no privilege. So</p> <p>4 if you want to instruct him not to answer, we may have</p> <p>5 to call the special master, but I'm asking for -- I</p> <p>6 can ask it a different way. I can ask if he was</p> <p>7 retained in the case. He just said he wasn't. So I'm</p> <p>8 entitled to explore who approached him and why he</p> <p>9 didn't do it.</p> <p>10 MS. HIBBERT: I think you need to ask clarifying</p> <p>11 questions, because I think Dr. Miller might be</p> <p>12 confused. If he was never retained, then I'd say</p> <p>13 that's a fair question. If he was retained to review</p> <p>14 any records and offer any opinions but not</p> <p>15 disclosed --</p> <p>16 MS. DICKINSON: Fair.</p> <p>17 MS. HIBBERT: -- that's not fair, okay.</p> <p>18 MS. DICKINSON: Fair, but that's not what I was</p> <p>19 asking. So we'll go at this --</p> <p>20 BY MS. DICKINSON:</p> <p>21 Q. I want to make sure you totally understand</p> <p>22 what I'm asking, okay, Dr. Miller?</p> <p>23 A few minutes ago I asked whether you had</p> <p>24 ever been asked to work as an expert witness and</p>

<p style="text-align: right;">Page 42</p> <p>1 declined to do so.</p> <p>2 Do you remember that?</p> <p>3 A. Yes, ma'am.</p> <p>4 Q. And that's what I'm asking about right</p> <p>5 now. I'm not asking about instances in which you</p> <p>6 actually accepted and were retained to work as an</p> <p>7 expert, okay?</p> <p>8 A. Correct.</p> <p>9 Q. And you said there was one in the last</p> <p>10 60 days in which you were asked to work as an expert</p> <p>11 but you declined?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. And so what was the substance of</p> <p>14 that case?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. That was a case that I would say doesn't</p> <p>18 have anything to do with opioids, but your question</p> <p>19 was so broad, were there any patients ever prescribed</p> <p>20 opioids in all of those cases, yes. And were there</p> <p>21 drug tests that looked for opioids in those cases,</p> <p>22 yes.</p> <p>23 But in the -- in that particular case</p> <p>24 there were questions -- there -- there was the</p>	<p style="text-align: right;">Page 44</p> <p>1 case.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Okay. And is that because you are listed</p> <p>4 as an expert for Thomson Reuters or Vident Partners as</p> <p>5 someone who may be interested in expert testimony?</p> <p>6 MS. HIBBERT: Objection to form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. I don't know if I've signed anything with</p> <p>9 Vident, but one of the attorneys simply knows me from</p> <p>10 a previous case.</p> <p>11 Thomson Reuters, I believe I signed a --</p> <p>12 an agreement saying, yeah, you can call me if you'd</p> <p>13 like.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. Could you give me a list of the companies,</p> <p>16 the expert finder companies that you are currently</p> <p>17 working with?</p> <p>18 A. Those two.</p> <p>19 Q. Okay.</p> <p>20 A. Thomson Reuters Expert Witness Services is</p> <p>21 initials TREWS, Vident Partners of York, Maine and</p> <p>22 the -- the Gerson Lehrman Group, which goes by GLG.</p> <p>23 Q. Okay. When did you first start working</p> <p>24 with GLG?</p>
<p style="text-align: right;">Page 43</p> <p>1 opportunity to provide expert testimony on behalf of a</p> <p>2 company that has a 1-800 number phone bank to connect</p> <p>3 people with treatment centers and has a company that</p> <p>4 does urine drug tests. And I was asked if I would be</p> <p>5 willing to provide expert testimony with regard to</p> <p>6 those aspects of a very complex litigation. And I</p> <p>7 said I'm -- I just don't have the time, I cannot do</p> <p>8 it.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay. And who was that company?</p> <p>11 A. There were two separate firms that find</p> <p>12 experts for law firms. One was Thomson Reuters and</p> <p>13 another is a company that is named in my CV, and if I</p> <p>14 could look at it, I could find it for you.</p> <p>15 Q. Of course.</p> <p>16 A. It's called Vident Partners in York, Maine</p> <p>17 on the bottom of Page 12 of Exhibit 3.</p> <p>18 Q. Is it fair to say that both Thomson</p> <p>19 Reuters and Vident Partners contacted you about</p> <p>20 serving as an expert witness?</p> <p>21 MS. HIBBERT: Objection to form.</p> <p>22 BY THE WITNESS:</p> <p>23 A. They contacted me to say would you be</p> <p>24 interested in providing expert witness services in our</p>	<p style="text-align: right;">Page 45</p> <p>1 A. My CV says July 2018 to the present and I</p> <p>2 would say that's correct.</p> <p>3 Q. What is the nature of your relationship</p> <p>4 with GLG?</p> <p>5 MS. HIBBERT: Objection to form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. It is interesting. GLG sends blast</p> <p>8 e-mails out to physicians and says, Would you like to</p> <p>9 do this, and a lot of what they have is surveys where</p> <p>10 you spend a half hour or an hour or whatever, and a</p> <p>11 lot of it is market research for pharmaceutical</p> <p>12 companies. It looks like a lot of it is for venture</p> <p>13 capital. And they want to say, Do you have experience</p> <p>14 in this domain and would you provide us some</p> <p>15 information and blah, blah, blah. And they cap their</p> <p>16 rates at 250 an hour, and I'm not interested in a lot</p> <p>17 of the things they have, but it's -- but when I was</p> <p>18 expanding my consultation business, I said, Well, I'll</p> <p>19 sign up with these people and see what happens.</p> <p>20 I did not realize that within GLG they had</p> <p>21 an expert witness finding. So it can include that,</p> <p>22 but most of it is just the survey stuff. I believe</p> <p>23 that's my answer to you.</p> <p>24 BY MS. DICKINSON:</p>

<p style="text-align: right;">Page 46</p> <p>1 Q. And did there come a point in time when 2 you were expanding your consulting business that you 3 did sign up with several expert witness finders? 4 MS. HIBBERT: Objection to form. 5 BY THE WITNESS: 6 A. The only one that I -- I'm trying to think 7 of how to answer that question, because I have had a 8 dialogue relationship with -- with TREWS for a while, 9 but I put in my CV May of '19 because that probably 10 means that I signed something, and I did not -- I 11 was -- I had a -- I had a dialogue relationship with 12 them before I signed anything.</p> <p>13 With Vident they found me for another case 14 several years ago, and that's one of the ones I 15 mentioned to you. And if I signed something, it would 16 be very recent. So those actually predated. So the 17 form of your question was since I decided to expand my 18 consultation business have I signed up with firms, and 19 the only firm that I have a new relationship with 20 since I left full-time employment at Rogers is GLG.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Okay. Well, let's talk about -- actually, 23 when -- when did you decide to expand your consulting 24 business?</p>	<p style="text-align: right;">Page 48</p> <p>1 BY MS. DICKINSON: 2 Q. Okay. 3 A. And the UW position of -- of a 20-hour a 4 week on salary is on notice for November 29. 5 Q. And are those both of 2019? 6 A. Yes, ma'am. 7 Q. Okay. 8 And as of October and November of 2019, do 9 you intend to fill that time with consulting work or 10 do you intend to retire? 11 A. I intend to much more retire than fill it 12 with consulting work. 13 Q. Okay. Is it fair to say, I think you said 14 that you were -- in the summer of 2018 you decided to 15 expand your consulting practice. 16 Since the summer of 2018, have you been 17 doing more consulting than you had prior to the summer 18 of 2018? 19 MS. HIBBERT: Objection to form. 20 BY THE WITNESS: 21 A. Yes. 22 BY MS. DICKINSON: 23 Q. Okay. And in looking at doing more 24 consulting, have you provided your name to these three</p>
<p style="text-align: right;">Page 47</p> <p>1 A. In the summer of 2018. 2 Q. I'm sorry. Did you say '18 or '19? I 3 didn't hear you. 4 A. I said '18. 5 Q. So last summer? 6 A. Yes, ma'am. 7 Q. Okay. And why last summer did you decide 8 to expand your consulting business? 9 A. Again, I will give you several answers 10 today under the rubric of transitioning toward 11 retirement. So I was trying to set up things that I 12 could do after I'm not getting a paycheck. 13 Q. And are you currently transitioning toward 14 retirement? 15 A. You are watching it happen. 16 Q. I wish, and I am jealous about that. No, 17 I'm just kidding. Okay. 18 When do you anticipate that you will be 19 fully retired or retired period? 20 MS. HIBBERT: Objection to form. 21 BY THE WITNESS: 22 A. My salaried positions, the ones I 23 mentioned, the 12-hour job with Rock County is on 24 notice October 21.</p>	<p style="text-align: right;">Page 49</p> <p>1 groups we've talked about, GLG, Thomson Reuters and 2 Vident, as someone who may be willing to provide 3 expert testimony? 4 MS. HIBBERT: Objection to form. 5 BY THE WITNESS: 6 A. Yeah, I would -- I don't know what 7 objection to form really means. 8 MS. HIBBERT: Don't worry. 9 BY THE WITNESS: 10 A. But -- but -- but I would object to form 11 because I didn't -- I didn't send my name to anybody. 12 BY MS. DICKINSON: 13 Q. I'm just trying to get a sense of 14 currently do those three companies have your name as 15 someone who is willing to provide expert testimony? 16 A. I would think that's correct. 17 Q. Okay. With GLG did you provide your name 18 to them or did they find you? 19 A. All of these places found me. 20 Q. Okay. When was your first contact with 21 GLG about doing expert witness work? 22 MS. HIBBERT: Objection to form. 23 BY THE WITNESS: 24 A. That's a specific question.</p>

Page 50	Page 52
<p>1 My first contact with GLG regarding doing 2 expert witness work was within the last couple of 3 months.</p> <p>4 BY MS. DICKINSON:</p> <p>5 Q. Okay. And who did you talk to at GLG 6 about doing that?</p> <p>7 A. There is a contact person. Am I to name 8 them?</p> <p>9 Q. You can if you know it.</p> <p>10 A. Eleanor Hamilton.</p> <p>11 Q. Okay. And do you know what your hourly 12 rate or compensation is for any work you may get hired 13 to do through GLG?</p> <p>14 A. Well, I listened to your English. My rate 15 that I would be hired to do is a higher rate because I 16 changed my rates this year, and I'm working off of old 17 rates now.</p> <p>18 Q. Okay. What is the hourly rate that if you 19 were hired through GLG you would be making? █████████████████████</p> <p>21 Q. Okay. And with Thomson Reuters, what was 22 the first time you had contact with Thomson Reuters 23 about serving as a potential expert witness?</p> <p>24 MS. HIBBERT: Objection to form.</p>	<p>1 minutes ago with the -- the 1-800 number company, 2 correct?</p> <p>3 A. And the drug testing.</p> <p>4 Q. Okay. Do you know if prior to the time 5 you signed a contract with Thomson Reuters whether 6 they had your name as someone they might contact about 7 expert witness testimony, do you know if they had your 8 name?</p> <p>9 MS. HIBBERT: Objection to form, calls for 10 speculation.</p> <p>11 BY THE WITNESS:</p> <p>12 A. Exactly, I don't know.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. You don't know.</p> <p>15 With respect to Vident Partners, when was 16 the first time you had contact with Vident Partners 17 about doing potential expert witness testimony?</p> <p>18 A. That was the one I mentioned the four to 19 eight-year window, and I really don't think it was 20 under that name at that point. It was the same guy. 21 I don't know if the company has changed names.</p> <p>22 Q. I need to ask you one more question about 23 the Thomson Reuters relationship.</p> <p>24 If you -- have you taken any case as an</p>
Page 51	Page 53
<p>1 BY THE WITNESS:</p> <p>2 A. I honestly believe that I had some contact 3 with them a while back, which is why I answered the 4 way I did earlier that it was not since I've decided 5 to expand my consult practice, which is the way you 6 phrased it, but a very specific case came up within 7 the last two months.</p> <p>8 BY MS. DICKINSON:</p> <p>9 Q. Okay. Did you end up being hired for that 10 very specific case that you are talking about in the 11 last few months?</p> <p>12 A. By Thomson Reuters?</p> <p>13 Q. Yes.</p> <p>14 A. No.</p> <p>15 Q. Okay. Did you decline to be hired for 16 that very specific case?</p> <p>17 A. Now I've got to think.</p> <p>18 Yes.</p> <p>19 Q. And what was the substance, generally, of 20 that case?</p> <p>21 A. I have testified to it previously, and it 22 is the one where I said I don't have time to do all of 23 that stuff.</p> <p>24 Q. Fair. The one we talked about a few</p>	<p>1 expert witness that was brought to you through the 2 Thomson Reuters relationship?</p> <p>3 A. I have not.</p> <p>4 Q. Okay. And if you do choose to take such a 5 case, do you know what your hourly rate will be? █████████████████████</p> <p>7 Q. Okay. Have you taken any case through a 8 relationship or with Vident Partners?</p> <p>9 A. I was involved with a case with, I think, 10 essentially the same entity. I'm not sure if the name 11 is the same.</p> <p>12 Q. And remind me. I'm sorry. When was that?</p> <p>13 A. That was the four to eight years ago one.</p> <p>14 Q. Okay. And did you serve as a disclosed 15 expert in that case or a consulting expert?</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I was never disclosed.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. Okay. Okay. I am going to -- we marked, 21 I think you have in front of you as Exhibit 2, could 22 you pick that up. Just find it in the shuffle of 23 papers in front of you.</p> <p>24 Okay. What is Exhibit 2?</p>

<p style="text-align: right;">Page 54</p> <p>1 A. My expert report in this case. 2 Q. Okay. 3 Does Exhibit 2, your expert report in this 4 case, list all of the opinions you intend to offer in 5 this case? 6 MS. HIBBERT: Objection to form. 7 BY THE WITNESS: 8 A. Yes. 9 BY MS. DICKINSON: 10 Q. Okay. Do you have any plans to render any 11 additional opinions not listed here in Exhibit 2 12 before the trial? 13 MS. HIBBERT: Objection to form. 14 BY THE WITNESS: 15 A. I do not. 16 BY MS. DICKINSON: 17 Q. Okay. 18 THE WITNESS: Sorry. 19 BY MS. DICKINSON: 20 Q. Does your report and all of the appendices 21 which are also contained in Exhibit 2 list all of the 22 bases for the opinions in this report? 23 MS. HIBBERT: Objection to form. 24 BY THE WITNESS:</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. Totally understood, and I think even in 2 the report you discussed your professional experience. 3 So taking your professional experience 4 aside, I'm just trying to understand as we sit here 5 today whether there is anything that you haven't 6 mentioned in your report that you relied upon in 7 forming the opinions that you -- that are contained in 8 this report? 9 A. Yeah, I -- 10 MS. HIBBERT: Objection to form. 11 BY MS. DICKINSON: 12 Q. Do you understand my question? 13 A. I -- 14 MS. HIBBERT: Same objection. 15 BY THE WITNESS: 16 A. I think we are getting there. I think you 17 are asking is there something specific like a journal 18 article that I have not included, and I would say no. 19 BY MS. DICKINSON: 20 Q. Okay. And if you could turn to Page 2 of 21 your report, please. It is Page 2 at the bottom. 22 A. Yes, ma'am. 23 Q. The Paragraph 4 at the last sentence says: 24 "This expert report and Appendix B should</p>
<p style="text-align: right;">Page 55</p> <p>1 A. No. 2 BY MS. DICKINSON: 3 Q. Okay. What is not listed in the expert 4 report that formed the bases of your opinions? 5 A. Years of practice, lots of reading of 6 things other than listed here, just my general 7 orientation as an experienced clinician in addiction 8 medicine and working in addiction policy. So I did 9 not specify where every idea came from. You said the 10 basis. 11 Q. Well, Doctor, you understand that in -- if 12 you serve as an expert witness in litigation, you are 13 under an obligation to disclose the entire bases for 14 the opinions you are rendering in the case. 15 Do you understand that? 16 MS. HIBBERT: Objection to form. 17 BY THE WITNESS: 18 A. If I have a general thought about 19 something that has grown over decades of experience 20 and it's what I think and what I understand to be 21 true, that can form my opinion without my having to 22 reference any new specific article to put in a 23 bibliography. 24 BY MS. DICKINSON:</p>	<p style="text-align: right;">Page 57</p> <p>1 be read collectively as they are intended to set forth 2 my opinions regarding validity and material I relied 3 on in performing those opinions." 4 Do you see that? 5 A. Yes. 6 Q. So this report and the Appendix B, is that 7 an accurate statement that that was intended to set 8 forth both your opinions and the materials you relied 9 on? 10 MS. HIBBERT: Objection to form. 11 BY THE WITNESS: 12 A. Yes, ma'am. 13 BY MS. DICKINSON: 14 Q. And I believe we marked, just to be fair 15 to you, I believe we've marked as Exhibit 4 some 16 additional materials that you've reviewed and 17 considered as of -- the date on this is June 3rd, 18 2019, is that right? 19 A. Yes, ma'am. 20 Q. And do those materials change -- the 21 review of those materials change the opinions in any 22 way that you have in Exhibit 2? 23 MS. HIBBERT: Objection to form. 24 BY THE WITNESS:</p>

Page 58	Page 60
<p>1 A. No.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Are there any corrections to Exhibit 2</p> <p>4 that you're aware of that need to be made today?</p> <p>5 A. I have not discussed this with anyone, but</p> <p>6 I think there are some secretarial issues with the</p> <p>7 way -- with regard to the way some of the pages lined</p> <p>8 up and some of the footnotes were cited. So it could</p> <p>9 be -- if there is an opportunity before trial, it</p> <p>10 would be clearer if there could be some secretarial</p> <p>11 amendments, but not anything on substance.</p> <p>12 Q. Okay. Fair enough.</p> <p>13 There may be some typos or some formatting</p> <p>14 issues, but as you sit here today, do you believe</p> <p>15 there is any substantive correction that needs to be</p> <p>16 made to Exhibit 2 to accurately and fully state your</p> <p>17 opinions in this case?</p> <p>18 A. I do not think so.</p> <p>19 Q. As -- as will happen throughout the day,</p> <p>20 you are entitled breaks any time. I think we've been</p> <p>21 going over an hour, so let's take a quick break. I</p> <p>22 don't want to exhaust you, and so if you need a break</p> <p>23 give me or your counsel a high sign and we'll take a</p> <p>24 break. We'll try not to do that more than every hour</p>	<p>1 the very first call.</p> <p>2 Q. Do you remember if it was someone at the</p> <p>3 Reed Smith firm?</p> <p>4 A. It wasn't a third party.</p> <p>5 Q. Was it an attorney?</p> <p>6 A. Probably. That's speculating.</p> <p>7 Q. Okay.</p> <p>8 A. I don't remember.</p> <p>9 Q. Had you ever worked with anyone at the</p> <p>10 Reed Smith firm before this case?</p> <p>11 A. No.</p> <p>12 Q. I assume that means you had not worked</p> <p>13 with Ms. Hibbert before this case?</p> <p>14 A. Correct.</p> <p>15 Q. Okay. What do you remember about the</p> <p>16 first conversation about this case when you were</p> <p>17 contacted?</p> <p>18 A. It was a phone call and they said we have</p> <p>19 a litigation where we are wanting somebody to be an</p> <p>20 expert to explain what addiction is.</p> <p>21 Q. Did that person let you know in that call</p> <p>22 that they represented AmerisourceBergen?</p> <p>23 MS. HIBBERT: Objection to form.</p> <p>24 BY THE WITNESS:</p>
<p>Page 59</p> <p>1 if that's okay, just to keep it moving, but why don't</p> <p>2 we take five and come back just to keep it moving. If</p> <p>3 you need longer than that, you certainly are entitled</p> <p>4 to it?</p> <p>5 A. Thank you so much, ma'am.</p> <p>6 MS. DICKINSON: Okay. Back in just -- I'll be</p> <p>7 back in five. Whenever you are all ready, that would</p> <p>8 be helpful if we could just keep moving.</p> <p>9 THE VIDEOGRAPHER: We are off the record at</p> <p>10 11:20 a.m.</p> <p>11 (WHEREUPON, a recess was had</p> <p>12 from 11:20 to 11:31 a.m.)</p> <p>13 THE VIDEOGRAPHER: We are back on the record at</p> <p>14 11:31 a.m.</p> <p>15 BY MS. DICKINSON:</p> <p>16 Q. Dr. Miller, back on the record after a</p> <p>17 short break.</p> <p>18 When was the first time that you were</p> <p>19 contacted about serving as an expert witness in this</p> <p>20 case?</p> <p>21 A. Last summer.</p> <p>22 Q. Okay. And by who?</p> <p>23 A. It may have been by Ms. Hibbert, but it</p> <p>24 may have been by somebody else. I -- I don't remember</p>	<p>Page 61</p> <p>1 A. I don't believe that came up in the first</p> <p>2 call.</p> <p>3 BY MS. DICKINSON:</p> <p>4 Q. How long was the first call?</p> <p>5 A. I don't remember.</p> <p>6 Q. Less than an hour?</p> <p>7 A. Yes.</p> <p>8 Q. Less than 15 minutes?</p> <p>9 MS. HIBBERT: Objection to form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. Probably not. Or maybe --</p> <p>12 BY MS. DICKINSON:</p> <p>13 Q. Okay.</p> <p>14 A. Maybe.</p> <p>15 Q. Prior to you being officially retained as</p> <p>16 an expert in this case, did you have additional phone</p> <p>17 calls or meetings to discuss the litigation?</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. My recollection is that before I was sent</p> <p>21 any materials to sign there was more than one phone</p> <p>22 call.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. Do you know when you signed a retainer to</p>

<p style="text-align: right;">Page 62</p> <p>1 serve as an expert in this case?</p> <p>2 A. I -- I don't know exactly when, but what</p> <p>3 you are getting at is some timeframes and I would say</p> <p>4 this summer I think was when there was the first phone</p> <p>5 call, but I traveled to their offices in July -- in</p> <p>6 August for a face-to-face get acquainted meeting and</p> <p>7 any signing would have been between the first phone</p> <p>8 call and actually having a face-to-face meeting with</p> <p>9 Ms. Hibbert and a -- another attorney from the firm.</p> <p>10 Q. Okay. At some point in the summer</p> <p>11 of 2018, you had a meeting at the Reed Smith law firm,</p> <p>12 is that fair?</p> <p>13 A. Yes. And as I sit here with you in</p> <p>14 deposition, I could have gotten the first phone call</p> <p>15 before the first day of summer. It could have been in</p> <p>16 late spring.</p> <p>17 Q. Okay. And I'm just trying to find out</p> <p>18 what -- how many contacts in between the time you were</p> <p>19 first contacted and the time that you signed a</p> <p>20 retainer letter with the Reed Smith law firm or with</p> <p>21 Amerisource, how many contacts with there?</p> <p>22 MS. HIBBERT: Objection to form, lack of</p> <p>23 foundation as well referencing the retainer letter as</p> <p>24 opposed to a retention letter, just for clarification.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Is there something that more accurately</p> <p>2 summarizes what the agreement is? I -- I -- I'm just</p> <p>3 trying to refer to it as something so we both</p> <p>4 understand what we are talking about when we talk</p> <p>5 about the agreement to work in this case.</p> <p>6 Is there something better?</p> <p>7 A. Very honestly, under oath, the word</p> <p>8 "agreement" comes to mind. Any adjective doesn't.</p> <p>9 Q. Okay. Let's -- when we talk about this</p> <p>10 for the purpose of the next few minutes, let's just</p> <p>11 call it your agreement, okay?</p> <p>12 A. Thank you.</p> <p>13 Q. All right. And you think you signed your</p> <p>14 agreement in this case in the summer of -- August of</p> <p>15 2018?</p> <p>16 A. Before.</p> <p>17 Q. Okay. Sometime over the summer --</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. -- of 2018?</p> <p>21 A. That's my best recollection.</p> <p>22 Q. Is your agreement with AmerisourceBergen</p> <p>23 or with the Reed Smith law firm?</p> <p>24 A. I believe it's with the firm.</p>
<p style="text-align: right;">Page 63</p> <p>1 BY MS. DICKINSON:</p> <p>2 Q. Actually, let's just start simple.</p> <p>3 Do you have an agreement to work as an</p> <p>4 expert in this case?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. What is that agreement called?</p> <p>7 A. Well, I don't know. It's a legal term.</p> <p>8 Q. Is the agreement a retainer letter or a</p> <p>9 retention letter, do you have any idea?</p> <p>10 A. Legal terms. Not -- not my area.</p> <p>11 Q. You don't -- okay.</p> <p>12 A. The diff -- the difference between a</p> <p>13 retainer and a retention, I -- you could give me some</p> <p>14 medical terms, but those are legal terms I don't know</p> <p>15 the meaning of.</p> <p>16 Q. Okay. For purposes of our discussion, so</p> <p>17 we know what we are talking about --</p> <p>18 A. Yeah.</p> <p>19 Q. -- when we refer to your agreement to work</p> <p>20 in this case, can we call it your retainer agreement?</p> <p>21 MS. HIBBERT: Objection to form.</p> <p>22 BY MS. DICKINSON:</p> <p>23 Q. Is that fair?</p> <p>24 A. I'll -- I'll go with that.</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. And before you signed your agreement,</p> <p>2 which lawyers at the Reed Smith law firm did you have</p> <p>3 conversations with?</p> <p>4 MS. HIBBERT: Objection to form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. I don't remember all of the names.</p> <p>7 BY MS. DICKINSON:</p> <p>8 Q. Can you remember -- tell me the ones you</p> <p>9 do remember.</p> <p>10 A. The only names I remember are Eric</p> <p>11 Alexander, I think it is, and Ms. Hibbert, and that's</p> <p>12 it. I have not met with any other attorneys from that</p> <p>13 firm or conversed with that I can recall.</p> <p>14 Q. Prior to signing your agreement, were you</p> <p>15 given any documents to review?</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I don't recall I got anything before I</p> <p>19 signed an agreement.</p> <p>20 BY MS. DICKINSON:</p> <p>21 Q. Okay. Prior to your agreement to serve as</p> <p>22 an expert for AmerisourceBergen, were you provided</p> <p>23 with any information about the case?</p> <p>24 MS. HIBBERT: Objection to form.</p>

<p style="text-align: right;">Page 66</p> <p>1 BY THE WITNESS:</p> <p>2 A. Yes.</p> <p>3 BY MS. DICKINSON:</p> <p>4 Q. What information?</p> <p>5 A. That there was a case and that there were 6 plaintiffs and that there were distributor defendants 7 and that my expertise was going to be limited to 8 discussing what is addiction.</p> <p>9 Q. Is that the total of the information you 10 were provided before you signed your agreement?</p> <p>11 MS. HIBBERT: Objection to form.</p> <p>12 BY THE WITNESS:</p> <p>13 A. I recall nothing else.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. And with that information, you executed an 16 agreement to serve as an expert for AmerisourceBergen, 17 is that right?</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. I did.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. And is your understanding of what your 23 opinion is limited to, does it fall within the subject 24 area of the what is addiction subject area?</p>	<p style="text-align: right;">Page 68</p> <p>1 MS. HIBBERT: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. No.</p> <p>4 BY MS. DICKINSON:</p> <p>5 Q. Is your agreement in this case, and this 6 is what I was asking you a few minutes ago --</p> <p>7 A. Oh, yes.</p> <p>8 Q. -- I'm going to get back to it. But let 9 me ask the question just so the record is clear.</p> <p>10 Is your agreement in this case to provide 11 testimony just in -- limited to MDL 2804, which is the 12 National Prescription Opiate Litigation or is it a 13 general retainer agreement with AmerisourceBergen to 14 provide testimony in an undefined set of cases?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I will answer the question to the best of 18 my ability.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. Okay.</p> <p>21 A. I believe that it's a retainer with the 22 firm. They told me that their primary client is 23 AmerisourceBergen. They later told me that there were 24 other distributor defendants who might want to use my</p>
<p style="text-align: right;">Page 67</p> <p>1 MS. HIBBERT: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. Yes, ma'am.</p> <p>4 BY MS. DICKINSON:</p> <p>5 Q. Do you know if your retainer agreement is 6 just for this case, the National Prescription Opiate 7 Litigation that is MDL 2804 or is it a general 8 agreement to testify in other matters?</p> <p>9 MS. HIBBERT: Objection to form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. I can answer that, but if I may, I'd like 12 to correct my previous answer.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Oh, sure. Of course.</p> <p>15 A. When you said is it limited to what is 16 addiction, there are some related questions: How does 17 addiction happen, who gets it, what are the factors 18 involved in the development of addiction. I believe a 19 description of the condition and its pathogenesis is 20 what I am -- what I was and am being asked to opine 21 on.</p> <p>22 Q. Okay. Prior to you signing the agreement, 23 did you have any discussions about what you would not 24 be willing to opine on?</p>	<p style="text-align: right;">Page 69</p> <p>1 expert opinion on their behalf. It has also been 2 mentioned that there could be other litigations 3 besides the Ohio one. And my understanding, which in 4 all honesty could be a misunderstanding, but based on 5 conversations, my understanding is that my expertise 6 is being provided to Reed Smith to assist them in 7 their representation of whoever might request their 8 services for whatever litigation might happen. So I 9 think their primary relationship is with 10 AmerisourceBergen, as I understand it, and to the 11 extent that there could be other litigation regarding 12 AmerisourceBergen and the general topic of opioids in 13 other jurisdictions, I might be involved in those.</p> <p>14 Q. Okay.</p> <p>15 A. That's my -- that's the best I can say.</p> <p>16 Q. That was actually exactly my question.</p> <p>17 That you understand -- do you understand that there 18 are thousands of cases filed into this multidistrict 19 litigation and AmerisourceBergen is a defendant in 20 those cases?</p> <p>21 MS. HIBBERT: Objection to form.</p> <p>22 And I'll instruct the witness not to 23 disclose any conversations or communications that you 24 had with counsel about any other cases or this case.</p>

<p style="text-align: right;">Page 70</p> <p>1 BY THE WITNESS:</p> <p>2 A. That's granted. And -- and, in fact, I 3 was thinking in a whole different direction.</p> <p>4 From the general media, news reports, and, 5 of course, I work in this area, I -- I read stuff, I'm 6 aware that there is a lot of stuff going on. And -- 7 and to the extent to which various manufacturers, 8 distributors and retail pharmacies might be involved 9 in these, I'm aware that there is a lot of active and 10 potential litigation in general, and that comes from 11 my -- you asked my knowledge, that comes from my 12 knowledge, not from discussions with Reed Smith. I'm 13 just....</p> <p>14 Q. Were you disclosed as an expert in the 15 State of Oklahoma case, for example?</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. No.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. Have -- has anyone -- are you serving as 21 an expert in the City of Baltimore case?</p> <p>22 MS. HIBBERT: Objection to form.</p> <p>23 Objection to form and instruction not to 24 answer to the extent that no expert witnesses have</p>	<p style="text-align: right;">Page 72</p> <p>1 Q. Have you been disclosed as an expert in 2 any other opioid-related litigation?</p> <p>3 MS. HIBBERT: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Not that I'm aware of.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Okay. Outside of your agreement to work 8 as an expert in this case, have you discussed working 9 as an expert but have not yet been retained with any 10 other law firm regarding opioid litigation?</p> <p>11 MS. HIBBERT: Objection to form.</p> <p>12 BY THE WITNESS:</p> <p>13 A. No.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. Dr. Miller, can I ask you what I think is 16 an important question: Why did you agree to defend 17 AmerisourceBergen in this case?</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. I agreed to provide an expert opinion to 21 the attorneys at Reed Smith and who their client was 22 doesn't really change that opinion. It's just an 23 expert opinion. Who the client was wasn't a central 24 consideration for me.</p>
<p style="text-align: right;">Page 71</p> <p>1 been dis -- disclosed in the City of Baltimore case. 2 So whether or not Dr. Miller or any other expert is 3 serving as an expert in that case is beyond the line 4 of --</p> <p>5 MS. DICKINSON: Well --</p> <p>6 MS. HIBBERT: -- what's appropriate for 7 Dr. Miller to respond to in this deposition.</p> <p>8 MS. DICKINSON: Act -- actually, he lists the 9 designation of experts in his CV --</p> <p>10 MS. HIBBERT: He lists the --</p> <p>11 MS. DICKINSON: -- or in his materials 12 considered list, so I -- I think it's been disclosed.</p> <p>13 MS. HIBBERT: He lists the designation of 14 Plaintiffs' experts. There have been no defense 15 experts disclosed in that case.</p> <p>16 If you want to -- if you want to phrase 17 the question of, Dr. Miller, have you been disclosed 18 as an expert witness in that case, that's a fair 19 question, but whether or not he is offering any 20 opinions in that case at this point prior to 21 disclosure of defense expert witnesses for that or any 22 other case is inappropriate and I'll instruct him not 23 to answer that question.</p> <p>24 BY MS. DICKINSON:</p>	<p style="text-align: right;">Page 73</p> <p>1 BY MS. DICKINSON:</p> <p>2 Q. Do you understand that your expert opinion 3 is being offered on behalf of Defendant 4 AmerisourceBergen and the other distributor defendants 5 that we talked about?</p> <p>6 A. I do.</p> <p>7 MS. HIBBERT: Objection to form, asked and 8 answered.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Did you understand that before you 11 rendered the opinion?</p> <p>12 MS. HIBBERT: Objection to form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. Yes.</p> <p>15 BY MS. DICKINSON:</p> <p>16 Q. Okay. And I guess I'm asking you if you 17 had that understanding, why did you agree to render an 18 opinion on behalf of AmerisourceBergen and some other 19 distributor defendants in the opioid litigation --</p> <p>20 MS. HIBBERT: Objection to form.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. -- that we are discussing today?</p> <p>23 MS. HIBBERT: Sorry. Same objection.</p> <p>24 BY THE WITNESS:</p>

Page 74	Page 76
<p>1 A. Because I believe in the American legal 2 system.</p> <p>3 BY MS. DICKINSON:</p> <p>4 Q. What does that mean?</p> <p>5 A. There are different sides. Everybody has 6 a right to have their side heard.</p> <p>7 Q. Did you look at any internal documents 8 from AmerisourceBergen in rendering your opinion?</p> <p>9 A. No.</p> <p>10 Q. Did you look at any of the conduct of any 11 AmerisourceBergen or any of the distributor defendants 12 in rendering your opinion?</p> <p>13 MS. HIBBERT: Objection to form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. I -- I did not.</p> <p>16 BY MS. DICKINSON:</p> <p>17 Q. Did you ever ask to?</p> <p>18 A. No. I read the Complaint.</p> <p>19 Q. That wasn't my question. I was just --</p> <p>20 A. I know, but that -- that's -- as far as 21 the conduct of parties in this litigation, I know 22 nothing about the con -- I -- I have no specific 23 knowledge of the conduct of parties other than the 24 allegations of the Complaint.</p>	<p>1 AmerisourceBergen whether the allegations in the 2 Complaint were true or not?</p> <p>3 MS. HIBBERT: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Again, given my previous statement about 6 the American legal system, I wasn't asked to opine on 7 the allegations or the behaviors or anything. I was 8 asked to opine on what is addiction, and that is 9 independent of whether even companies exist or are 10 incorporated. And so I look at this as a matter of 11 being somebody who works in the field, has attained 12 certain status in the field, has certain expertise to 13 share and possibly said light -- shed light on a legal 14 process, and so I'm kind of neutral in this.</p> <p>15 BY MS. DICKINSON:</p> <p>16 Q. Is the answer to my question then it was 17 not important to your opinion whether the allegations 18 in the Complaint are true or not, right?</p> <p>19 MS. HIBBERT: Objection to form, asked and 20 answered.</p> <p>21 BY THE WITNESS:</p> <p>22 A. It was not an important consideration of 23 mine in my decision. That's where you began.</p> <p>24 BY MS. DICKINSON:</p>
Page 75	Page 77
<p>1 Q. You don't know whether the allegations of 2 the Complaint are true or not, right, fair?</p> <p>3 A. I think that's why there is a trial.</p> <p>4 Q. Would it -- was it important to you to 5 know if whether the allegations in the Complaint are 6 true or not in deciding whether to testify on behalf 7 of AmerisourceBergen?</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. I -- in all due respect, I believe you are 11 not asking me my opinion. I believe you are asking me 12 my personal motives.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Which is the question.</p> <p>15 A. And is that a fair question?</p> <p>16 Q. Yes.</p> <p>17 A. Okay.</p> <p>18 MS. HIBBERT: Objection. Same objection. I'm 19 not really sure what question is pending right now, 20 so.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. I'll read it to you.</p> <p>23 Was it important for you to know in 24 deciding whether to testify on behalf of</p>	<p>1 Q. Okay. What is your compensation 2 arrangement in this case?</p> <p>3 A. Hourly rate for different services.</p> <p>4 Q. And what is that hourly rate?</p> <p>5 A. The hourly rate in this case for general 6 review of records and general consultation with 7 counsel, review of materials is 475 an hour, the rate 8 for deposition and preparation for deposition is 650 9 an hour, and the rate for trial is a half day and a 10 full day rate, and we haven't gotten there and you 11 have the exhibit somewhere, I believe, and I'm not 12 remembering. It is in the letter of agreement. There 13 is a \$5,000 number, as I recall, and I don't remember 14 if that's a half day or a full day.</p> <p>15 Q. Okay. Is -- I don't see it in your 16 report.</p> <p>17 Is there a flat fee arrangement if you're 18 to give trial testimony of some kind for your work?</p> <p>19 A. It's a -- it's a -- it's a daily rate.</p> <p>20 Q. Okay. And do you have any idea what that 21 daily rate is? I don't see it in here.</p> <p>22 A. I would tend to think -- I would tend to 23 think it was a \$5,000 rate is what was -- again, the 24 rates I'm working under, not my current rates for</p>

<p style="text-align: right;">Page 78</p> <p>1 future work.</p> <p>2 Q. Have your current rates for future work</p> <p>3 changed from the rates we just described in this case?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And how have they changed?</p> <p>6 A. Gone up.</p> <p>7 Q. To what?</p> <p>8 A. It was a significant change based on the</p> <p>9 fact that I have been working off of rates that I set</p> <p>10 in 2004. I never changed my rates. And in having a</p> <p>11 conversation with a colleague who does a lot of this,</p> <p>12 and we talked about other colleagues and her awareness</p> <p>13 of what rates were, I realized that I had an</p> <p>14 opportunity to revise my rates. And so I changed my</p> <p>15 basic hourly rate from 475 to 675 and I changed the</p> <p>16 trial rate in an equivalent percentage.</p> <p>17 Q. Okay. And who was the colleague you</p> <p>18 discussed that with?</p> <p>19 A. Do I have to disclose that?</p> <p>20 Q. Yes.</p> <p>21 A. Andrea Barthwell.</p> <p>22 Q. And who is Andrea Barthwell?</p> <p>23 A. She is a former president of the American</p> <p>24 Society of Addiction Medicine, like myself.</p>	<p style="text-align: right;">Page 80</p> <p>1 hours in this case?</p> <p>2 A. My recollection is it was July.</p> <p>3 Q. July of 2018?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Okay. Can you give me a sense of how the</p> <p>6 less than a hundred hours you -- you've spent</p> <p>7 developing the opinions in the case were spent over</p> <p>8 the course of that year, and what -- what I mean by</p> <p>9 that --</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. -- is I just want a sense of if you have</p> <p>12 spent 15 minutes in the last summer and a hundred</p> <p>13 hours in the last two months, can you just give me a</p> <p>14 general sense of how those hours were spent?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I know that there were three or four</p> <p>18 months where there was no activity in the middle. I</p> <p>19 did a lot of reading at first because I read the</p> <p>20 Complaint.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Okay.</p> <p>23 A. Okay. Then, because I knew I would write</p> <p>24 an expert report for the first time in my career, I</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. Is she an addiction medicine specialist?</p> <p>2 A. She is.</p> <p>3 Q. Okay. And how do you know Dr. Barthwell?</p> <p>4 A. Well, we originally met when we were on</p> <p>5 the faculty together of the first ASAM review</p> <p>6 course --</p> <p>7 Q. Okay. Have -- have you done --</p> <p>8 A. -- back in the '80s.</p> <p>9 Q. Sorry. I spoke over you.</p> <p>10 A. That's quite all right.</p> <p>11 Q. Have you known each other ever since?</p> <p>12 A. Oh, yes.</p> <p>13 Q. Okay. Did anyone else in this case assist</p> <p>14 with your work in preparing your opinions and your</p> <p>15 report?</p> <p>16 A. No.</p> <p>17 MS. HIBBERT: Objection to form.</p> <p>18 BY MS. DICKINSON:</p> <p>19 Q. No staff time or anything like that?</p> <p>20 A. You are looking at staff.</p> <p>21 Q. Okay. How many hours have you spent</p> <p>22 working on the case to date?</p> <p>23 A. Less than a hundred.</p> <p>24 Q. Okay. And when did you start billing</p>	<p style="text-align: right;">Page 81</p> <p>1 was sent expert reports from totally unrelated cases</p> <p>2 just to read to get a sense of what's the tone, what's</p> <p>3 the depth, what's the duration, just a general frame</p> <p>4 of reference of how to construct an expert report.</p> <p>5 And before I began my position at the</p> <p>6 university in October 1, I had time on my hands and I</p> <p>7 began initial drafts of this report even back in</p> <p>8 September. So I think September billing was a decent</p> <p>9 number. And then things went pretty quiet. And then,</p> <p>10 I don't know, three months ago things picked up again.</p> <p>11 And May was probably my biggest month because I was</p> <p>12 reading depositions of other experts and reading</p> <p>13 them -- rereading journal articles, and so the last</p> <p>14 two months have been pretty busy.</p> <p>15 Q. Okay. Let's break this up a little bit.</p> <p>16 First, what expert reports from the sample</p> <p>17 expert reports were you given?</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. Could I reference my report?</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Yes. I don't see them anywhere in there.</p> <p>23 That's what I'm asking.</p> <p>24 A. Oh, they weren't in there?</p>

<p style="text-align: right;">Page 82</p> <p>1 Q. I -- I don't see them.</p> <p>2 A. Oh.</p> <p>3 Q. If you can find them, great, but what</p> <p>4 expert reports were you given is my question?</p> <p>5 MS. HIBBERT: I'll put an objection on the</p> <p>6 record and instruct the witness not to answer. These</p> <p>7 aren't materials that are relied upon for Dr. Miller's</p> <p>8 opinions. They don't fall within any of the</p> <p>9 exceptions to the communications disclosure under</p> <p>10 Rule 26 and I'll thus instruct Dr. Miller not to</p> <p>11 answer any questions pertaining to those</p> <p>12 communications between counsel and himself.</p> <p>13 MS. DICKINSON: So, Counsel, for the record, you</p> <p>14 are instructing the witness not to answer materials he</p> <p>15 was given by counsel and considered in -- for -- in</p> <p>16 drafting his opinion in this case, is that correct?</p> <p>17 MS. HIBBERT: You can ask him that question</p> <p>18 whether he considered those reports in drafting his</p> <p>19 opinions in this case.</p> <p>20 MS. DICKINSON: He just testified he did, so...</p> <p>21 MS. HIBBERT: He didn't. That's a</p> <p>22 mischaracterization.</p> <p>23 MS. DICKINSON: Are you instructing him not to</p> <p>24 answer which reports he was given?</p>	<p style="text-align: right;">Page 84</p> <p>1 the subject matter of those expert reports were?</p> <p>2 MS. HIBBERT: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. Probably, yes.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. Okay. Did you -- or who are the authors</p> <p>7 of those expert reports?</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. I don't recall.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. Okay. Would your billing detail show</p> <p>13 that?</p> <p>14 MS. HIBBERT: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. Probably.</p> <p>17 BY MS. DICKINSON:</p> <p>18 Q. All right. And, Dr. Miller, can -- can</p> <p>19 you give me your best -- do you recall what date you</p> <p>20 started working on this report?</p> <p>21 A. That's a matter of interpretation. I</p> <p>22 began working on the case and all of the work has</p> <p>23 contributed to the report in some way, but actually</p> <p>24 began drafting the report is a different question.</p>
<p style="text-align: right;">Page 83</p> <p>1 MS. HIBBERT: Yes.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Okay. Dr. Miller, you testified a minute</p> <p>4 ago you were given some expert reports from other</p> <p>5 cases, is that right?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. Did you read and review those?</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. I did.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. Okay. Did you read and review those prior</p> <p>13 to drafting your opinions in this case?</p> <p>14 MS. HIBBERT: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. I did.</p> <p>17 BY MS. DICKINSON:</p> <p>18 Q. Okay. And what was the subject matter of</p> <p>19 those expert reports?</p> <p>20 MS. HIBBERT: Objection to form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. I don't recall.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. Okay. Would your billing detail show what</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. Okay. Fair enough.</p> <p>2 Do you recall what date you started</p> <p>3 working on the case?</p> <p>4 A. No, but it was right when we signed the</p> <p>5 agreement and I would say that's when I began work.</p> <p>6 Q. Okay. Would your invoices show what date</p> <p>7 you started billing on the case?</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. They would.</p> <p>11 MS. DICKINSON: And for the record, we don't</p> <p>12 have your invoices here today, do we?</p> <p>13 MS. HIBBERT: Objection to form, calls for</p> <p>14 speculation.</p> <p>15 BY THE WITNESS:</p> <p>16 A. I don't have them.</p> <p>17 BY MS. DICKINSON:</p> <p>18 Q. Okay. Do you have an idea what month you</p> <p>19 started working on the case?</p> <p>20 A. Again, I believe it was in July.</p> <p>21 Q. July of 2018?</p> <p>22 A. Yes, ma'am.</p> <p>23 Q. Okay. How many hours did you spend in</p> <p>24 July of 2018 when you first started working on the</p>

<p style="text-align: right;">Page 86</p> <p>1 case?</p> <p>2 A. Less than 15.</p> <p>3 Q. And what did you do in those less than</p> <p>4 15 hours in July of 2018?</p> <p>5 A. Madam, I'm going to be very careful in</p> <p>6 answering these questions because I'm having to guess</p> <p>7 at things that I really don't have specific memories</p> <p>8 of. You are asking me to break things down by month</p> <p>9 and specific things. I didn't review any of that and</p> <p>10 I didn't try to refresh my memory and didn't reference</p> <p>11 anything in preparation for today's deposition. I can</p> <p>12 tell you some things I've already testified to. They</p> <p>13 called me, we spoke, they said, What are your rates.</p> <p>14 I pulled up my rate sheet which was my 2004 rate</p> <p>15 sheet. We spoke. They said, Are you interested? I</p> <p>16 said, Sure. They sent me a letter of agreement which</p> <p>17 says, We are agreeing to do this and there is a</p> <p>18 paragraph on rates and I don't even remember if it</p> <p>19 specified what all I -- what all I was to do. I don't</p> <p>20 know if it, like, said, You will be asked to report,</p> <p>21 you will be asked to appear at trial. I don't</p> <p>22 remember if it said all of that stuff. It was</p> <p>23 basically an agreement, okay? So I signed it. And</p> <p>24 then they began shipping me stuff, like the Complaint,</p>	<p style="text-align: right;">Page 88</p> <p>1 materials in July of 2018?</p> <p>2 MS. HIBBERT: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. If I had them in front of me, it would</p> <p>5 specify what I did.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Okay. If you had your invoices in front</p> <p>8 of you, could you tell me what you did in August</p> <p>9 of 2018 before you started writing your report?</p> <p>10 MS. HIBBERT: Objection to form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. I would -- I would certainly think so.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Okay. If you had both of those two</p> <p>15 invoices, could you tell me how many hours you spent</p> <p>16 prior to the writing where you started writing the</p> <p>17 report?</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. I would think so, yes.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Okay. Do you have any idea sitting here</p> <p>23 today how many hours you spent both reviewing the</p> <p>24 materials that were shipped to you, doing research or</p>
<p style="text-align: right;">Page 87</p> <p>1 it's a long Complaint, okay. Then they asked me to</p> <p>2 start doing some research, and I began using my</p> <p>3 librarian at Meriter Hospital to find articles and I</p> <p>4 began reading that stuff. And then, again, as I've</p> <p>5 said in different ways, I didn't know what to do with</p> <p>6 it.</p> <p>7 The other reports were sent -- not -- like</p> <p>8 I said, I don't remember what they were on or who the</p> <p>9 authors were. It was only formatting, it was the</p> <p>10 concept -- the -- the -- it was the process of how one</p> <p>11 does a report. It didn't form my opinion. It just</p> <p>12 formed how I would package all of my knowledge and</p> <p>13 expertise that's in my CV and the articles I read into</p> <p>14 a report. And then I began drafting in September.</p> <p>15 That's what I can testify to the best of my ability.</p> <p>16 Q. Okay. Doctor, you realize I'm just trying</p> <p>17 to get a sense of what you did, what your methodology</p> <p>18 was and how many hours you spent doing certain things</p> <p>19 to get to the endpoint, okay?</p> <p>20 A. Okay.</p> <p>21 Q. That's the purpose of what -- these</p> <p>22 questions that I'm about to ask you.</p> <p>23 If you had your invoices in front of you,</p> <p>24 could you tell me how many hours you spent reviewing</p>	<p style="text-align: right;">Page 89</p> <p>1 anything else before you started drafting in</p> <p>2 September?</p> <p>3 MS. HIBBERT: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. I hope my answer is correct. 30.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Are you guessing?</p> <p>8 A. Yeah.</p> <p>9 Q. Okay. Do you have any idea how long you</p> <p>10 spent reviewing the Complaint?</p> <p>11 A. Yes, I have an idea. I would say it was</p> <p>12 two or three hours.</p> <p>13 Q. Okay. Would your invoices show exactly</p> <p>14 how long it actually was?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I think that level of detail would appear.</p> <p>18 BY MS. DICKINSON:</p> <p>19 Q. Okay. Do you have any idea -- you said</p> <p>20 you were shipped a number of materials after you</p> <p>21 started work and before you started drafting.</p> <p>22 Where do I find -- how long did you spend</p> <p>23 reviewing those materials?</p> <p>24 MS. HIBBERT: Objection to form.</p>

Page 90	Page 92
<p>1 BY MS. DICKINSON:</p> <p>2 Q. Before you started drafting?</p> <p>3 MS. HIBBERT: Same objection.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Ten hours maybe.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Is that a guess?</p> <p>8 A. Absolutely. These are all going to be</p> <p>9 guesses.</p> <p>10 Q. Okay. You said you were asked to do some</p> <p>11 research?</p> <p>12 A. Or estimates.</p> <p>13 Q. You said you were asked to do some</p> <p>14 research. Is -- prior to the drafting of your report,</p> <p>15 did you conduct research?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Okay. What did you do to conduct</p> <p>18 research?</p> <p>19 A. I read -- well, I had my own articles from</p> <p>20 my own literature files that I keep and then I would</p> <p>21 look in the bibliography and find other articles I</p> <p>22 thought would be a deeper dive, provide more relevant</p> <p>23 information. I did some searches to find some</p> <p>24 articles. I asked the librarian at Meriter Hospital,</p>	<p>1 the report is things relative to my opinions that</p> <p>2 substantiate my opinions. I could have read something</p> <p>3 and decided, eh, that's not relevant and so it's not</p> <p>4 included.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. I'm not asking what you thought was</p> <p>7 relevant to your opinions. I'm asking about materials</p> <p>8 you reviewed or considered, okay. And so in doing the</p> <p>9 research prior to the writing of the report, are there</p> <p>10 articles that you reviewed or considered that do not</p> <p>11 appear in Appendix B of the Materials Considered?</p> <p>12 MS. HIBBERT: Objection to form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. I'm under oath and I'm going to answer</p> <p>15 this as best I can.</p> <p>16 Practicing addiction medicine is what I</p> <p>17 do. Delving into the topic of what is addiction is</p> <p>18 something I really spend time on. I'm always reading,</p> <p>19 whether there is a lawsuit or not and whether I'm</p> <p>20 involved in it or not, I'm always reading on the</p> <p>21 topic. I'm always finding new articles. I am always</p> <p>22 a student of the field in which I work. And in all</p> <p>23 due respect, I think I'm sitting in this room because</p> <p>24 I am an expert on this area of what is addiction.</p>
<p>1 Robert Koehler, K-o-e-h-l-e-r, to find things on</p> <p>2 different topics for me. He is wonderful. And so I</p> <p>3 had articles that I found on my own and that was part</p> <p>4 of what I used.</p> <p>5 Q. Okay. How many hours did you spend doing</p> <p>6 that research up until the time you started drafting?</p> <p>7 MS. HIBBERT: Objection to form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. Again, I'm -- I'm thinking that seeking,</p> <p>10 finding, reading, and taking notes on articles and</p> <p>11 such was probably 30 hours.</p> <p>12 BY MS. DICKINSON:</p> <p>13 Q. Is that also a guess?</p> <p>14 MS. HIBBERT: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. Correct, ma'am.</p> <p>17 BY MS. DICKINSON:</p> <p>18 Q. Okay. Are all of the materials that you</p> <p>19 pulled in researching before you started drafting, are</p> <p>20 they all listed in the Appendix of Materials</p> <p>21 Considered to Exhibit 2, your report?</p> <p>22 MS. HIBBERT: Objection to form.</p> <p>23 BY THE WITNESS:</p> <p>24 A. Well, I read so much and -- and what's in</p>	<p>1 Are there articles I have read in my life</p> <p>2 that I have not cited here, sure. They are what I've</p> <p>3 done as part of my career, not as an expert witness,</p> <p>4 to understand the disease I treat and the patients</p> <p>5 that I take care of. And so that when I give talks,</p> <p>6 they are based on fact as much as possible and not on</p> <p>7 speculation on my part.</p> <p>8 Is there a whole library of literature</p> <p>9 from my 30-year career that has contributed to my</p> <p>10 thinking on this matter that I didn't go back and</p> <p>11 reread specifically for this case, if there was</p> <p>12 something I read for this case, you know about it and</p> <p>13 it's public record in this document. There is nothing</p> <p>14 I've hidden, nothing else, but I can't say that there</p> <p>15 is -- there aren't other articles I've ever read that</p> <p>16 helped shape my understanding of what addiction is and</p> <p>17 how people get it.</p> <p>18 So I believe I've done a very good faith</p> <p>19 and accurate representation to meet the legal</p> <p>20 requirements of citing so that both sides have access</p> <p>21 to it, but your questions have been sort of broad and</p> <p>22 I -- I -- and I can't -- I can't -- I -- I can't rule</p> <p>23 out that there is some article somewhere that somebody</p> <p>24 wrote or some lecture I went to that helped shape my</p>

<p style="text-align: right;">Page 94</p> <p>1 opinions that I -- I -- that I'm able to cite. I -- I 2 can't cite every single thing I've read in the last 3 30 years and I'm sorry.</p> <p>4 MS. DICKINSON: Objection; nonresponsive.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. Doctor, my question was actually very, 7 very different. And I hope you understand I'm not 8 actually trying to ask you broad questions or trying 9 to be tricky. All I'm trying to understand is what 10 you did.</p> <p>11 So my question was, you said you did 12 research. And I asked you, is -- are all of the 13 articles you pulled in the course of that research, 14 are they listed in Exhibit -- or Appendix B to 15 Exhibit 2? Simple question.</p> <p>16 MS. HIBBERT: Objection to form, asked and 17 answered.</p> <p>18 BY THE WITNESS:</p> <p>19 A. I'm going to answer no so that you can ask 20 a follow-up.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Okay. Where would I find the -- a list of 23 the articles that don't appear in Exhibit B?</p> <p>24 MS. HIBBERT: Objection to form.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. I do.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Is it a hard copy file or an electronic 4 file?</p> <p>5 A. Hard copy.</p> <p>6 MS. HIBBERT: Objection to form.</p> <p>7 Give me a pause, please, Dr. Miller.</p> <p>8 THE WITNESS: Yes, ma'am.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. So there are articles in that hard copy 11 that we were just talking about that you may have 12 read, but didn't feel that were relevant but they 13 are -- exist in that hard copy?</p> <p>14 MS. HIBBERT: Objection.</p> <p>15 BY MS. DICKINSON:</p> <p>16 Q. Is that a fair statement?</p> <p>17 MS. HIBBERT: Same objection.</p> <p>18 BY THE WITNESS:</p> <p>19 A. That is a fair statement.</p> <p>20 BY MS. DICKINSON:</p> <p>21 Q. Okay.</p> <p>22 And were you asked by counsel when 23 preparing Appendix B to Exhibit 2 to list all of the 24 materials that you had read?</p>
<p style="text-align: right;">Page 95</p> <p>1 BY THE WITNESS:</p> <p>2 A. Okay.</p> <p>3 BY MS. DICKINSON:</p> <p>4 Q. Or Appendix B, I'm sorry, Exhibit 2.</p> <p>5 MS. HIBBERT: Same ob -- same objection.</p> <p>6 BY THE WITNESS:</p> <p>7 A. Yeah, within discussions between the law 8 firm that has retained me and me, the expert, there 9 have been other articles that I've read that I thought 10 didn't pertain and so aren't listed.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. Is there anywhere that I can find the 13 articles that you read that you did not list here?</p> <p>14 MS. HIBBERT: Objection to form, asked and 15 answered.</p> <p>16 BY THE WITNESS:</p> <p>17 A. Yes.</p> <p>18 BY MS. DICKINSON:</p> <p>19 Q. Where?</p> <p>20 A. At my house.</p> <p>21 Q. Do you have a file on this case that those 22 articles would exist in?</p> <p>23 MS. HIBBERT: Objection to form.</p> <p>24 BY THE WITNESS:</p>	<p style="text-align: right;">Page 97</p> <p>1 MS. HIBBERT: I'll object to that question and 2 instruct the witness not to answer any communications 3 with counsel outside of the boundaries of Rule 26 for 4 which that question does not fall.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. Do you know why there were materials that 7 you read that aren't listed in Appendix B?</p> <p>8 MS. HIBBERT: Objection to form and you are not 9 to disclose any communications that you had with 10 counsel, Dr. Miller. You can answer to the extent 11 that you can with that qualification.</p> <p>12 BY THE WITNESS:</p> <p>13 A. If they are not listed, I thought they 14 were from the literature but not relevant to my 15 opinions as formulated in my report.</p> <p>16 BY MS. DICKINSON:</p> <p>17 Q. Okay. Let's talk about you started 18 drafting your report, I think you said, in September 19 of 2018, is that right?</p> <p>20 A. I believe that's correct.</p> <p>21 Q. You said in September that you had done a 22 decent amount of work.</p> <p>23 What does that mean, roughly, how many 24 hours?</p>

Page 98	Page 100
<p>1 MS. HIBBERT: Objection -- objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. I'll answer it a bit differently. I'd say</p> <p>4 I -- I did 40 percent of the rough draft of the</p> <p>5 report.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Does that mean you said you spent roughly</p> <p>8 100 hours. Does that mean 40 so of them were spent in</p> <p>9 last September?</p> <p>10 MS. HIBBERT: Objection to form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. No, I would not make that calculation.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Okay. How much of the 100 or so hours</p> <p>15 that you have worked on this case preparing your</p> <p>16 report or working on the case were spent on drafting</p> <p>17 back in last September?</p> <p>18 A. Between four and six, as I recall.</p> <p>19 Q. Four and six hours?</p> <p>20 A. Yes, ma'am.</p> <p>21 Q. Okay. And you said that there were a</p> <p>22 couple months after September where there wasn't much</p> <p>23 work, is that accurate?</p> <p>24 A. Yes, ma'am.</p>	<p>1 billed in April and May of 2019?</p> <p>2 A. I know that in May it was, like, 33.</p> <p>3 Q. Okay. Do you know how many in April?</p> <p>4 A. No.</p> <p>5 Q. Do you know what -- if you had your</p> <p>6 invoices, would you know how many hours you spent in</p> <p>7 April?</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. I would.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. Do you know how many of the 33 hours you</p> <p>13 billed in May, do you know how those hours were spent?</p> <p>14 A. We just finished May, right?</p> <p>15 Q. You told me that you thought you had spent</p> <p>16 33 hours in May. I'm just asking how were those</p> <p>17 33 hours spent, what kinds of activities were you</p> <p>18 performing?</p> <p>19 A. Reading the expert opinion of Dr. Lembke,</p> <p>20 reading the deposition of Dr. Lembke. I actually read</p> <p>21 a bunch of expert opinions which are listed in the</p> <p>22 document here. You've got those names of expert</p> <p>23 opinions in this case. And I did more writing, maybe</p> <p>24 some revision, I finished up the final draft, and had</p>
<p>Page 99</p> <p>1 Q. Okay. Did you do any work in October or</p> <p>2 November of 2018 on the case?</p> <p>3 A. I believe I did work in October. I don't</p> <p>4 recall about November. And I believe that to the best</p> <p>5 of my memory January through March were dead months.</p> <p>6 Q. When you say dead months, did you do any</p> <p>7 work?</p> <p>8 A. No work, no billing.</p> <p>9 Q. Okay. And you said you believed you did</p> <p>10 work in October and November.</p> <p>11 How many hours did you spend in those</p> <p>12 months?</p> <p>13 A. I -- I -- I would just be guessing.</p> <p>14 Q. If you had your invoices, would you know?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I believe I would.</p> <p>18 BY MS. DICKINSON:</p> <p>19 Q. You said January to March there was no</p> <p>20 work, so that takes us up to April of 2019, is that</p> <p>21 right?</p> <p>22 A. Right. So March I really don't remember,</p> <p>23 but April picked up and May was very heavy.</p> <p>24 Q. Okay. Do you know how many hours you</p>	<p>Page 101</p> <p>1 phone calls and had -- in May I had a meeting with</p> <p>2 Ms. Hibbert.</p> <p>3 Q. Without your invoices, do you know how</p> <p>4 much time you spent on each of those activities</p> <p>5 sitting here today?</p> <p>6 MS. HIBBERT: Objection to form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. Within the -- I could give some percentage</p> <p>9 guesstimates on the breakdown of the 33 hours if you</p> <p>10 would like.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. It is the best we have, so sure.</p> <p>13 A. Thank you, ma'am.</p> <p>14 MS. HIBBERT: Objection to form, calls for</p> <p>15 speculation.</p> <p>16 BY THE WITNESS:</p> <p>17 A. In May a meeting with Ms. Hibbert at</p> <p>18 around six hours; other consultation with her I would</p> <p>19 guess about three in the course of the month; reading</p> <p>20 of the Lembke deposition, probably three; reading</p> <p>21 extra articles, eight.</p> <p>22 I'm actually getting a little tired. So</p> <p>23 I'm -- I'm going to -- I've -- I've answered that</p> <p>24 about as well as I could.</p>

Page 102	Page 104
<p>1 BY MS. DICKINSON:</p> <p>2 Q. Okay. Do you need to take a break?</p> <p>3 A. I think it's mental fatigue related to</p> <p>4 this line of questioning --</p> <p>5 Q. Okay.</p> <p>6 A. -- in all -- in all honesty.</p> <p>7 Q. I -- I think we are almost done with the</p> <p>8 line of questioning --</p> <p>9 A. That's cool.</p> <p>10 Q. -- so if you are okay we'll keep going,</p> <p>11 but if you need a break --</p> <p>12 A. No.</p> <p>13 Q. -- we certainly can take one.</p> <p>14 A. I'm -- I'm -- I'm doing fine except for</p> <p>15 this line of questioning. I think we'll be fine.</p> <p>16 Q. Okay. Of the 33 hours you just -- I just</p> <p>17 want to make sure I heard you correctly and then I</p> <p>18 think we'll move on, you think you spent nine of those</p> <p>19 meeting with the attorneys, is that right?</p> <p>20 A. Right.</p> <p>21 Q. Okay.</p> <p>22 A. Six face-to-face, three on the phone,</p> <p>23 right.</p> <p>24 Q. Three hours reviewing the testimony of</p>	<p>1 Complaints.</p> <p>2 So what we see is one, two, three, four,</p> <p>3 five, six Complaints, we see a little over three pages</p> <p>4 of citations of articles and documents from</p> <p>5 professional literature, a list of one, two, three,</p> <p>6 four, five, six transcripts of depositions, and a list</p> <p>7 of -- I thought it was ten expert reports, one, two,</p> <p>8 three, four, five, six, seven, eight, nine -- boy, my</p> <p>9 memory was right -- ten.</p> <p>10 Q. We are not going to cover again the -- the</p> <p>11 things we've already gone over with respect to</p> <p>12 materials considered. You have this broken down into</p> <p>13 several sections, so I'll just take them in sections.</p> <p>14 One is court documents where you list some</p> <p>15 various Complaints, right?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Who selected which court documents</p> <p>18 you would look at in the case?</p> <p>19 A. I have no idea.</p> <p>20 MS. HIBBERT: Objection to form.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. It was not you?</p> <p>23 MS. HIBBERT: Objection to form.</p> <p>24 BY THE WITNESS:</p>
<p>1 Dr. Lembke, is that right?</p> <p>2 MS. HIBBERT: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. That's what I said, I think.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. Okay. I just wanted to make sure I wrote</p> <p>7 it down accurately.</p> <p>8 And about eight hours reviewing articles,</p> <p>9 is that right?</p> <p>10 MS. HIBBERT: Objection to form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. Okay.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Okay. The Appendix B to Exhibit 2, can</p> <p>15 you turn to that? When you get there, let me know.</p> <p>16 A. Um-hum.</p> <p>17 Q. Tell me, what is Appendix B to Exhibit 2?</p> <p>18 MS. HIBBERT: Object to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. Appendix B is Materials Reviewed and</p> <p>21 Considered. And in the course of doing this work I've</p> <p>22 come to understand how lawyers do this. I consider</p> <p>23 the literature to be the -- the materials, but</p> <p>24 obviously there's all sorts of materials, these</p>	<p>1 A. It was not me.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Okay. Once you had -- or have you read</p> <p>4 each and every page of the court documents that are</p> <p>5 listed in Appendix B?</p> <p>6 A. No.</p> <p>7 Q. Okay. Which part -- portions of the court</p> <p>8 documents in Exhibit -- or Appendix B have you read?</p> <p>9 MS. HIBBERT: Objection to form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. If I may, in the four Ohios there was a</p> <p>12 city and a county and there was a lot of repetition.</p> <p>13 And one of them I read from start to finish and I</p> <p>14 can't remember which of the four. And then when I got</p> <p>15 into the others, I zoomed in because I wasn't going</p> <p>16 after all of the various allegations and what have</p> <p>17 you. And then when I was sent the Baltimore, my</p> <p>18 recollection is that I looked at that less than an</p> <p>19 hour total, again, to just look at some things that</p> <p>20 would be relevant to what I thought I was asked to</p> <p>21 form expert opinions on.</p> <p>22 So I did not read all of these. I -- I</p> <p>23 read enough of Ohio that I got a sense of the broad</p> <p>24 case and -- and then I -- I read segments of the</p>

Page 106	Page 108
1 others, and that would be on the court documents. 2 Now, was your question on the court 3 documents? 4 BY MS. DICKINSON: 5 Q. Just on the court documents. Let's take 6 it one by one. Okay? 7 A. Yes, ma'am. 8 Q. Why was it relevant to you to consider the 9 City of Baltimore designation of experts and the 10 Second Amended Complaint in the City of Baltimore 11 case? 12 MS. HIBBERT: Objection to form. 13 BY THE WITNESS: 14 A. I would not say it was considered relevant 15 by me. 16 BY MS. DICKINSON: 17 Q. I guess I -- I'm not sure. We talked 18 earlier about the materials that you reviewed that you 19 thought weren't relevant. You didn't list in the -- 20 the list of materials, but here you list them. 21 So is there a reason these are listed and 22 other irrelevant materials were not? 23 MS. HIBBERT: Objection to form. 24 BY THE WITNESS:	1 A. No. 2 BY MS. DICKINSON: 3 Q. Okay. What other source did you receive 4 professional literature from? 5 A. Okay. 6 MS. HIBBERT: Objection -- 7 Hold on. 8 Objection to form. 9 She is not asking you about any substance 10 of the communications that you had with counsel, okay. 11 Understand? With that qualification you can answer. 12 BY MS. DICKINSON: 13 Q. I'll ask a better question. 14 Did you receive some of the professional 15 literature cited in here from counsel? 16 MS. HIBBERT: Objection to form. 17 BY THE WITNESS: 18 A. Yes. 19 BY MS. DICKINSON: 20 Q. Okay. Which articles on the professional 21 literature list, both in Exhibit 2, Appendix B, and 22 Exhibit 4, did you receive from counsel? 23 MS. HIBBERT: Objection; form. 24 BY THE WITNESS:
1 A. I listed all of the things that I would 2 consider non-literature, all of the legal things, I'll 3 use that term, legal things sent to me by Reed Smith. 4 And I didn't get anything in the -- in the form of 5 a -- of a legal thing from them that I didn't put in 6 the report. 7 BY MS. DICKINSON: 8 Q. Okay. Let's move onto the Professional 9 Literature portion. 10 The professional literature listed here 11 and the additional articles listed in Exhibit 4, is 12 that a complete list of the specific professional 13 literature that you reviewed with respect to this 14 case? 15 A. Yes, ma'am. 16 MS. HIBBERT: Objection to form. 17 THE WITNESS: Sorry. 18 MS. HIBBERT: Asked and answered. 19 BY MS. DICKINSON: 20 Q. Are all of the professional literature 21 sources on this list sources that you found in your 22 own research? 23 MS. HIBBERT: Objection to form. 24 BY THE WITNESS:	1 A. Okay. Let's take a deep breath. If I 2 were to go through this list, which I have not done, 3 and say where did they come from, there are three 4 sources. One is articles -- well, four sources. One 5 is articles I already had. 6 BY MS. DICKINSON: 7 Q. Okay. 8 A. Another is articles that I researched on 9 my own using my librarian in Madison. 10 Then there were two different types of 11 articles sent to me by counsel. One was things I 12 asked for -- 13 Q. Uh-huh. 14 A. -- because I became impressed with the 15 quality of their library service and they could ship 16 me something in a printed form and I didn't have to 17 print it myself off an electronic, and I asked for a 18 number of things from them. Then there was a 19 literature file that they had compiled for their own 20 purposes so they could understand the issues in the 21 case and they shared some articles with me that they 22 had researched on their own that I had not researched 23 myself. So there is a mixture. 24 Q. Okay. I'm interested in the last bucket,
Page 107	Page 109

Page 110	Page 112
<p>1 which is just the things -- you said there are four 2 buckets, and I just want to make sure I understand you 3 correctly --</p> <p>4 A. Yes.</p> <p>5 Q. -- so I'm not misunderstanding.</p> <p>6 There are things that you have on your 7 own?</p> <p>8 A. Right.</p> <p>9 Q. There is library research that you had 10 done on your behalf with your assistant or the library 11 you work with, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. There are things that you -- 14 articles that you asked counsel to provide you, 15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. And then there are things that the lawyers 18 had in their own file that they provided to you 19 without you making a specific request for, is that 20 fair?</p> <p>21 MS. HIBBERT: Objection to form.</p> <p>22 BY MS. DICKINSON:</p> <p>23 Q. Does that summarize what you just told me?</p> <p>24 A. It does.</p>	<p>1 Q. It would. Do you mind?</p> <p>2 A. I don't.</p> <p>3 Q. Okay.</p> <p>4 MS. HIBBERT: Objection to form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. Are you ready?</p> <p>7 BY MS. DICKINSON:</p> <p>8 Q. Yes.</p> <p>9 A. I don't believe I had seen the Marchione.</p> <p>10 I had seen things similar, but I don't think I had 11 seen that.</p> <p>12 Q. Okay.</p> <p>13 A. The one after that, whatever MagMutual is, 14 I don't think I found that. I don't think the 15 FDA news was one of mine.</p> <p>16 Q. Is that the one right after the MagMutual?</p> <p>17 A. Yes, ma'am.</p> <p>18 I'm guessing on Baker. I don't know if 19 I've read that before.</p> <p>20 Q. Okay.</p> <p>21 A. I had read the Peggy Compton article, 22 Tompkins lead author, when it first came out, but it 23 appearing on this list is a result of it being sent to 24 me.</p>
Page 111	Page 113
<p>1 Q. Okay. That last bucket, the things the 2 lawyers had that you had not specifically asked for or 3 you haven't found on your own, how do I find those on 4 this list of professional literature?</p> <p>5 MS. HIBBERT: Objection to form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. You would not be able to because I have 8 not demarcated.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay. Do you have any idea as we sit here 11 today which of those articles fall in that Category 12 No. 4?</p> <p>13 MS. HIBBERT: Objection to form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. I could go through the list and give you 16 some examples that I hope would be accurate, because I 17 promise you there were things that they sent that 18 they -- were in their file, I already had them. I had 19 already read them. Things that were novel to me that 20 I would not have necessarily seen had it not been for 21 their prior research that they shared with me, I could 22 go through the list and name a few if that would be of 23 any help.</p> <p>24 BY MS. DICKINSON:</p>	<p>1 Q. Okay.</p> <p>2 A. I didn't pull this one, but I had read it 3 before.</p> <p>4 Q. Okay.</p> <p>5 A. I asked for Kendler, I was sent Noble, I 6 think I was sent Volkow and Wang, Proceedings of 7 National Academy of Sciences. That's a great article. 8 Boscarino came off of another expert's report and then 9 came into my report. I'm trying to remember that one. 10 Boscarino's did not come from my research. The 11 Degenhardt article did not come from my research. The 12 Wise and Koob article did not come from my research. 13 Is Bosco list -- Boscarino listed twice or 14 are there three Boscarinos? 2015 -- I think that 15 Boscarino is listed twice.</p> <p>16 Q. Okay.</p> <p>17 A. It definitely is listed twice.</p> <p>18 The NIH News and Events 19 titled "10 Percent," I don't believe that came from 20 me.</p> <p>21 That's it.</p> <p>22 Q. Okay. When -- just for -- so the record 23 is clear, when you say it didn't come from you, then 24 if it didn't come from you, it came from the lawyers</p>

Page 114	Page 116
<p>1 at Reed Smith, is that correct?</p> <p>2 MS. HIBBERT: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. It came in the binder of literature that</p> <p>5 they shared with me from their previous research.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. And when you say "they," you mean the</p> <p>8 lawyers at Reed Smith?</p> <p>9 A. I do, ma'am.</p> <p>10 MS. HIBBERT: Objection to form.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. I was just trying to make sure that there</p> <p>13 wasn't anyone else that was providing you articles, is</p> <p>14 that fair?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. That is very fair.</p> <p>18 BY MS. DICKINSON:</p> <p>19 Q. Okay. And then could you quickly just</p> <p>20 take Exhibit 4, the few articles that were on that</p> <p>21 Exhibit 4.</p> <p>22 Were those articles you found yourself</p> <p>23 following the generation of your expert report on</p> <p>24 May 10th and between that time and June 3rd, which is</p>	<p>1 A. -- but go ahead. Go ahead.</p> <p>2 Q. I was just going to say that Exhibit 4 is</p> <p>3 titled "Supplemental List of Materials Reviewed and</p> <p>4 Considered as of June 3rd, 2019"?</p> <p>5 A. That would suggest that they were not in</p> <p>6 my report and I -- and I read them after. I don't</p> <p>7 think they are cited in my report. I know Robins</p> <p>8 isn't, but I read that years ago.</p> <p>9 Q. Did you -- did you, for example, consider</p> <p>10 the Vowles article that's listed here in rendering</p> <p>11 your report on May -- prior to rendering your report</p> <p>12 on May 10th, I guess is the question?</p> <p>13 A. I -- I --</p> <p>14 MS. HIBBERT: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. -- I think not.</p> <p>17 BY MS. DICKINSON:</p> <p>18 Q. Okay. The same with the Edlund study that</p> <p>19 appears on the supplemental list, did you consider</p> <p>20 that in rendering your opinions that were generated on</p> <p>21 May 10th?</p> <p>22 MS. HIBBERT: Objection to form.</p> <p>23 BY THE WITNESS:</p> <p>24 A. You have stated that correctly.</p>
<p style="text-align: center;">Page 115</p> <p>1 the date on Exhibit 4 or were those provided to you?</p> <p>2 MS. HIBBERT: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. Krebs was provided.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. Okay.</p> <p>7 A. Edlund and Vowles I requested.</p> <p>8 Q. Okay.</p> <p>9 A. Robins I basically requested. I had it,</p> <p>10 but they got the new copy.</p> <p>11 Q. Had you reviewed any of the materials on</p> <p>12 Exhibit 4 prior to authoring your expert report in the</p> <p>13 case?</p> <p>14 MS. HIBBERT: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. Could I have a moment?</p> <p>17 BY MS. DICKINSON:</p> <p>18 Q. Of course.</p> <p>19 A. This may take a while, if you don't mind.</p> <p>20 Q. Maybe I can ask the question just a little</p> <p>21 bit better and maybe it will make it faster, but I</p> <p>22 don't know.</p> <p>23 A. I don't know if it will --</p> <p>24 Q. Okay.</p>	<p style="text-align: center;">Page 117</p> <p>1 BY MS. DICKINSON:</p> <p>2 Q. Okay. Same with Krebs, fair?</p> <p>3 A. Yeah.</p> <p>4 Q. Okay. And Robins, correct?</p> <p>5 A. Yes.</p> <p>6 MS. HIBBERT: Objection to form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. Right.</p> <p>9 MS. HIBBERT: Just give me a pause.</p> <p>10 THE WITNESS: Yeah.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. Okay. All right. You said when you were</p> <p>13 testifying a few minutes ago about the eight or so</p> <p>14 hours you spent in May reviewing articles, you used</p> <p>15 the word "extra articles." It may have just been that</p> <p>16 you misspoke, but I was just trying to understand,</p> <p>17 were there articles in May -- why did you use the word</p> <p>18 "extra"? Maybe that's the easiest way.</p> <p>19 MS. HIBBERT: Objection to form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. I think I --</p> <p>22 THE WITNESS: Pardon me, ma'am. Pardon me.</p> <p>23 I've been -- I've been very disrespectful to</p> <p>24 Ms. Hibbert repeatedly, I'm sorry.</p>

Page 118	Page 120
1 BY MS. DICKINSON: 2 Q. It's hard to do. 3 A. Well, I am trying to be conversational 4 with you and she is -- 5 Q. Right. 6 A. -- jumping in as she is required to do, 7 and I appreciate it. 8 I used the wrong word. "Supplemental" is 9 the right word. 10 Q. That's what I was getting at. 11 Were the eight hours spent reviewing the 12 articles on Exhibit 4? 13 MS. HIBBERT: Objection to form. 14 BY THE WITNESS: 15 A. The eight hours included my rereading my 16 stuff -- well, rereading the articles I cited. 17 BY MS. DICKINSON: 18 Q. Okay. 19 A. I -- I will -- I will violate the 20 directions I've been given by my -- by -- by counsel. 21 She said -- 22 MS. HIBBERT: Please don't. 23 BY THE WITNESS: 24 A. -- "Know your report." And so I knew my	1 BY THE WITNESS: 2 A. Essentially, yes, I read the whole thing. 3 BY MS. DICKINSON: 4 Q. Okay. And how many hours total did you 5 spend reading and reviewing the articles that are 6 listed in both Appendix B to Exhibit 2 and in 7 Append -- and in Exhibit 4? 8 A. Ms. Dickinson, I'm -- I -- I obviously 9 want to give you very accurate answers for the purpose 10 of our meeting today and I really don't want to be 11 tripped up by saying something that then didn't make 12 sense. 13 Q. Okay. 14 A. It wasn't more than a hundred hours. I 15 did spend time writing. I mean, I think I spent half 16 of the hundred hours reading because it's a lot of 17 reading. I think I probably spent, I don't know, 25 18 to 40 percent of the time reading legal things and 60 19 to 75 percent of the time reading journal articles. 20 So some of the answers I've given before, if you 21 compare them, and maybe, Ah-ha, his math is wrong. 22 I'm doing my best. 23 Q. I'm actually not at all trying to trip you 24 up on math. The problem is I don't have your invoices
Page 119	Page 121
1 report. I read my report again and again and I reread 2 the articles I used just to make sure because I knew I 3 was coming to a deposition. So the eight hours was 4 not for Exhibit 4. 5 BY MS. DICKINSON: 6 Q. Okay. 7 A. The eight hours included my rereading the 8 literature that I had cited in my report to refresh my 9 memory given that the original drafting had begun way 10 back in September. 11 Q. Fair enough. I was just trying to 12 understand whether there were extra articles because 13 you used the word. 14 A. No, ma'am. 15 Q. Okay. 16 A. No, ma'am. 17 Q. All right. We can cross that off the 18 list. 19 A. Right. 20 Q. In total -- the articles that are 21 mentioned in your professional literature list, both 22 on Appendix B of Exhibit 2 and Exhibit 4, did you read 23 each article start to finish? 24 MS. HIBBERT: Objection to form.	1 in front of me. So it would be a lot easier if I did. 2 Because I don't, I have to ask you the questions about 3 what you did and when without the benefit of the 4 documents. 5 Do you understand, I'm not trying to 6 actually trip you up? 7 MS. HIBBERT: Objection to form, move to strike 8 the colloquy. 9 BY MS. DICKINSON: 10 Q. Do you understand why I'm asking these 11 questions and you have to answer them without the 12 document in front of you? 13 MS. HIBBERT: Objection to form. 14 BY THE WITNESS: 15 A. Ah, yes, and I'm -- and I'm doing my best. 16 So I would guess -- I would guess that I spent 30, 17 40 hours just reading journal articles. That's just a 18 guess. 19 BY MS. DICKINSON: 20 Q. Okay. And, again, if we had your 21 invoices, would you know that is more for certain? 22 MS. HIBBERT: Objection to form. 23 BY THE WITNESS: 24 A. We'd have a really good estimate, yes,

Page 122	Page 124
1 ma'am.	1 Q. Okay. When did you do that?
2 BY MS. DICKINSON:	2 A. Since May 10th.
3 Q. Okay. Let's move onto the depositions	3 Q. Okay.
4 that you list here. There are one, two, three, four,	4 A. Sometime in May.
5 five, six deposition transcripts.	5 Q. Why did you not review them before you
6 Is that -- have I read that correctly?	6 rendered your opinions but you read them in May?
7 A. Yes, ma'am.	7 MS. HIBBERT: Objection to form.
8 Q. Okay. Who determined which deposition	8 BY THE WITNESS:
9 transcripts you received in the case?	9 A. I did not have them. I wanted to -- my
10 Was it you?	10 intent was to generate what I considered a clean
11 A. I don't know. I don't -- it was not me.	11 report, which is my thoughts and -- and the opinions
12 Q. Okay.	12 of Dr. Lembke are for a matter of the proceedings, not
13 MS. HIBBERT: Objection to form.	13 for a matter of my statement.
14 BY MS. DICKINSON:	14 BY MS. DICKINSON:
15 Q. Did you ask for all of the deposition	15 Q. Fair.
16 transcripts in the case?	16 How much time have you spent -- or
17 MS. HIBBERT: Objection to form.	17 actually, just have you reviewed each and every
18 BY THE WITNESS:	18 page of the rest of depositions after generating your
19 A. I did not ask for any.	19 report in May?
20 BY MS. DICKINSON:	20 MS. HIBBERT: Objection to form.
21 Q. And were the deposition transcripts	21 BY THE WITNESS:
22 provided to you by counsel at Reed Smith?	22 A. No, ma'am.
23 A. Yes, ma'am.	23 BY MS. DICKINSON:
24 Q. Okay. Let's look at the last portion,	24 Q. Okay. Did you read certain portions?
Page 123	Page 125
1 which is -- oh, I'm sorry. Can we just -- can I ask	1 A. No, ma'am.
2 you one more question about the depositions?	2 Q. Okay. Would -- I guess I'm trying -- I
3 You had testified earlier about reading	3 asked you if you read the whole thing and I asked you
4 Dr. Lembke's deposition for roughly three hours. The	4 if you read certain portions.
5 remaining five depositions, do you know how much time	5 What did you do with the rest of the
6 you spent reviewing those?	6 deposition transcripts in terms of reading them?
7 MS. HIBBERT: Objection to form.	7 A. My best recollection, and I -- you know,
8 BY THE WITNESS:	8 this may be -- my memory may be off because obviously
9 A. They are listed here, ma'am, but I don't	9 they are listed in the report and the date of the
10 recall reading any of those depositions besides	10 report is May the 10th. I didn't think I read this
11 Lembke's.	11 stuff before -- oh, no, totally incorrect. Totally
12 BY MS. DICKINSON:	12 incorrect.
13 Q. Okay.	13 Q. Okay.
14 A. And I read that one in detail.	14 A. Yeah.
15 Q. Okay. Prior to rendering your report on	15 Q. You can correct it.
16 May 10th, the only deposition you can recall reading	16 A. Oh, yeah. No, no, right.
17 prior to that report is Dr. Lembke's, is that fair?	17 My report includes some rebuttal of some
18 MS. HIBBERT: Objection to form.	18 of these -- well, it -- no, it wasn't deposition.
19 BY THE WITNESS:	19 Let's be clear. The last page is expert reports which
20 A. That's my best recollection.	20 you haven't gotten to.
21 BY MS. DICKINSON:	21 Q. Correct.
22 Q. Okay. Have you read those deposis --	22 A. I read all of those.
23 depositions since rendering your report on May 10th?	23 Q. Okay.
24 A. Yes.	24 A. And I rebutted some of them in my report.

Page 126	Page 128
<p>1 The deposition, I don't think I saw it until after the 2 report was done, and that was Lembke, and I don't 3 recall seeing the others even though they are listed 4 here. So that may be a secretarial thing.</p> <p>5 Q. No, that's fine.</p> <p>6 Sitting here today, do you think you've 7 read the other depositions other than Dr. Lembke?</p> <p>8 A. I believe I have not.</p> <p>9 Q. Okay. Let's flip over --</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. -- to -- to the last portion which is the 12 Plaintiffs' Expert Reports?</p> <p>13 A. Yes, ma'am.</p> <p>14 Q. You list a number of Plaintiffs' expert 15 reports.</p> <p>16 Do you know if these are all of the 17 Plaintiffs' experts in this case?</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. I have no idea.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Okay. Did you select which Plaintiffs' 23 experts reports you wanted to look at in this case?</p> <p>24 A. No.</p>	<p>1 MS. HIBBERT: Objection to form.</p> <p>2 Give me a pause, Dr. Miller.</p> <p>3 THE WITNESS: Sorry.</p> <p>4 BY MS. DICKINSON:</p> <p>5 Q. Did you ask for any other expert reports 6 that you didn't receive?</p> <p>7 A. No.</p> <p>8 Q. Okay. Did you ask counsel to provide you 9 with certain specialties of expert reports or did 10 counsel simply select?</p> <p>11 MS. HIBBERT: Objection to form.</p> <p>12 BY THE WITNESS:</p> <p>13 A. Counsel selected.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. Did you review the attachments to the 16 Plaintiffs' experts reports that are on your 17 Appendix B of Exhibit 2?</p> <p>18 A. I'm sorry. Did I --</p> <p>19 Q. Did you review the attachments to the 20 expert reports or just the reports themselves? A lot 21 of these reports have various attachments or 22 appendix -- appendices.</p> <p>23 A. Oh, the Lembke report came as two huge 24 ring binders and all of her attachments, and I did not</p>
<p style="text-align: center;">Page 127</p> <p>1 Q. Okay. Did the counsel at Reed Smith 2 select those?</p> <p>3 MS. HIBBERT: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. I believe so.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. And the counsel at Reed Smith sent you the 8 reports that are listed here, is that right?</p> <p>9 A. That is correct.</p> <p>10 Q. Okay. Do you know when you received the 11 reports that are listed here?</p> <p>12 A. I do not.</p> <p>13 Q. And you said you read all of those reports 14 cover to cover, is that right?</p> <p>15 A. I did.</p> <p>16 Q. Okay. Do you know how long you spent 17 doing that?</p> <p>18 A. Six, eight maybe.</p> <p>19 Q. And when you say, "six, eight," six, eight 20 hours?</p> <p>21 A. Hours, yes, ma'am.</p> <p>22 Q. If you had your invoices, would you know 23 how long you spent reading the reports?</p> <p>24 A. Yes, ma'am.</p>	<p style="text-align: center;">Page 129</p> <p>1 read all of that stuff.</p> <p>2 Q. Okay. What portion of the binders did you 3 read?</p> <p>4 MS. HIBBERT: Objection to the form.</p> <p>5 BY THE WITNESS:</p> <p>6 A. I read her bibliography and I'm pretty 7 sure that she had articles from her bibliography 8 preprinted attached to the report and I read a number 9 of those, but there was other stuff she -- there was a 10 transcript of a public radio show or something and 11 there was the entire photocopy of her book, which I -- 12 I bought her book, I haven't read it yet, and I just 13 glossed over it to see what it was. The only thing -- 14 the only things I would have read were her report in 15 full and literature articles she cited, not all of 16 that other, what did you call them, attachments, yeah, 17 yeah, no, I didn't read that stuff.</p> <p>18 BY MS. DICKINSON:</p> <p>19 Q. Okay. Would the time spent reviewing 20 Dr. Lembke's articles or materials that were sent in 21 the binders, would -- would that be included in the 22 six to eight hours that you said you spent on the 23 Plaintiffs' expert report review or is that something 24 in addition?</p>

Page 130	Page 132
1 A. Included. 2 Q. Okay. I think -- actually, do you have 3 something... 4 Do you know or do you -- do you still have 5 the binders that were sent regarding Dr. Lembke? 6 A. I do. 7 Q. Okay. Are those in your physical file? 8 MS. HIBBERT: Objection to form. 9 BY THE WITNESS: 10 A. Yes. 11 BY MS. DICKINSON: 12 Q. Okay. Do you know if all of the materials 13 that were in those binders are on the literature list 14 of your materials considered or are there additional 15 materials in those binders? 16 MS. HIBBERT: Objection to form. 17 BY THE WITNESS: 18 A. Let me answer your question to the best of 19 my ability. 20 BY MS. DICKINSON: 21 Q. Okay. 22 A. She chose her list of articles. Edlund 23 and Vowles were examples. So if she had an article I 24 thought was relevant, I put it here. If she had other	1 listed, I -- I -- I think that's where this -- this is 2 where this list of -- I don't know where Krebs came 3 from, but Edlund and Vowles were things she really 4 relied on and I really wanted to study those 5 carefully. And so I listed them here. There is 6 nothing else that was in those binders that is not 7 listed in Appendix 4 -- I'm not -- not listed in 8 Exhibit 4 or Exhibit 2. 9 BY MS. DICKINSON: 10 Q. Okay. 11 A. Nothing. 12 Q. Did reviewing the list of materials on 13 Exhibit 4 change your opinions from your May 10th 14 report in any way? 15 A. No. 16 Q. Okay. All right. I think this is a good 17 time to take a lunch break, and maybe we only have one 18 more segment to go, but I can't promise. I'm just 19 going to try, okay. So -- 20 A. That's cool. 21 MS. DICKINSON: So let's try to take a quick one 22 given that because I don't think we are going to go, 23 you know, three more segments here. 24 THE WITNESS: Yeah.
1 stuff that I didn't find relevant to anything except 2 to her opinion, she is entitled to her opinion, I 3 didn't list it. It's -- it's -- it's -- but she 4 listed it -- 5 Q. Okay. 6 A. -- so it's a matter of court record. 7 Q. Oh, sure. I was just trying to understand 8 what it was that you read with respect to her 9 materials. Does that make sense? I mean, if you have 10 any idea of which materials of hers you read or maybe 11 you don't. I'm -- I'm just trying to understand what 12 you actually looked at in that set of materials. 13 MS. HIBBERT: Objection to form. 14 BY THE WITNESS: 15 A. What's going through my mind, madam, is 16 that it -- it's sort of a blur. I'm trying to make a 17 separation in my mind between her report and her 18 deposition and articles that she cited in one versus 19 the other. 20 If she cited it in her report and you know 21 that I had rebutted some things she said in her report 22 in my report, I could have included those articles in 23 my list of articles. If there is something that she 24 cited in her deposition that was not previously	1 MS. DICKINSON: So however long you need, but 2 I'm going to be back in here in 20 or 25 minutes. How 3 about that? 4 THE WITNESS: Are -- are we off the record? 5 MS. HIBBERT: Not yet. 6 THE VIDEOGRAPHER: We are off the record at 7 12:50 p.m. 8 (WHEREUPON, a recess was had 9 from 12:50 to 1:28 p.m.) 10 THE VIDEOGRAPHER: We are back on the record at 11 1:28 p.m. 12 BY MS. DICKINSON: 13 Q. Okay. Dr. Miller, we are back on the 14 record after lunch. If you could pull out Exhibit 2 15 and turn to Appendix A, that would be helpful for the 16 next line of questions. 17 A. All righty. 18 Q. Okay. And just so the record is clean, 19 remind me what Appendix A is in Exhibit 2? 20 A. It is my curriculum vitae. 21 Q. Oh, you know what, I -- let's actually not 22 do that. If you could pull out Exhibit 3, I'm sorry, 23 your current curriculum vitae, that would be helpful. 24 A. Okay.

Page 134	Page 136
<p>1 Q. Okay. Dr. Miller, prior to this case had 2 you ever worked with AmerisourceBergen before? 3 A. No, ma'am. 4 Q. Okay. Prior to this case, had you done 5 any other work for any other pharmaceutical companies? 6 MS. HIBBERT: Objection to form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. Yes.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay. I'm going to try to make this as 11 quick as I can. If you can turn to Page 11 of 12 Exhibit 3 -- I'm sorry. Maybe it is Page 10. I'm 13 sorry.</p> <p>14 Page 10 had -- has a section that starts 15 and it says, "Consulting Positions." 16 Do you see that?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. Would all of the work that was -- that you 19 have done with pharmaceutical companies be listed in 20 this section regarding consulting positions?</p> <p>21 A. I believe it would.</p> <p>22 Q. Okay. Could we go through this list of 23 consulting positions and you identify for me which 24 ones are consulting positions with pharmaceutical</p>	<p>1 Braeburn Phar -- Pharmaceuticals in between 2013 and 2 2015? 3 A. They established an advisory board of 4 addiction experts and key opinion leaders to talk 5 about a product they wanted to bring to market. 6 Q. And what was that product? 7 A. The tradename is Probuphine. 8 Q. And what is Probuphine? 9 A. It is an implantable form of Buprenorphine 10 that's used to treat opioid addiction. 11 Q. Okay. And were -- how much time did you 12 spend on the advisory board for Braeburn 13 Pharmaceuticals in between 2013 and 2015? 14 A. I would estimate less than 20. 15 Q. And when you say that, 20 hours? 16 A. Yes, ma'am. 17 Q. Okay. Were you compensated for your time? 18 A. Yes, ma'am. 19 Q. At what rate? 20 A. I don't recall exactly, and it was not a 21 rate that I set. It was a usual and customary rate 22 set by them based on industry standards and FDA 23 regulations. 24 Q. Okay.</p>
Page 135	Page 137
<p>1 companies, just so we can make the record clear? 2 A. Yes, ma'am. 3 Q. Okay. 4 A. On Page 11, No. 4, Braeburn. 5 Q. Okay. 6 A. Two down from that, BioDelivery Sciences. 7 Q. Okay. 8 A. Below that, Purdue Pharma. On the next 9 page, the top of the page, US WorldMeds. 10 Q. Okay. 11 A. And just below the middle of that 12 page another US WorldMeds. Those are the 13 pharmaceutical companies. 14 Q. Okay. Let us, if you could, let's turn 15 back to the first one, Brae -- Braeburn 16 Pharmaceuticals. 17 It looks like from your CV that you did -- 18 have done work for Braeburn Pharmaceuticals from 19 January of 2013 to the present. 20 Is that accurate? 21 A. The relationship has not closed, but there 22 has been no activity in many years. This activity was 23 pretty much 2013, '14, maybe '15. 24 Q. Okay. And what were you doing for</p>	<p>1 A. And it was a daily rate more than an 2 hourly rate. 3 Q. Fair enough. 4 Do you recall what the daily rate roughly 5 was?  8 Q. Okay. And typically -- or actually, why 9 don't I ask you this: 10 What were you doing when you sat on the 11 advisory board for Braeburn Pharmaceuticals? 12 A. Providing information about patients with 13 opioid addiction, the kind of patients who might be 14 candidates for this medication, existing medications 15 in the market and how this might find its own market 16 niche. We also talked about how to use this 17 medication, how to train physicians, how to market the 18 drug to physicians. I believe that's the summary. 19 Q. Okay. During -- when you were serving on 20 the advisory board, did Braeburn Pharmaceuticals pay 21 for your travel expenses with respect to your time on 22 the advisory board? 23 A. Yes. 24 Q. Did they pay for your meals with respect</p>

Page 138	Page 140
<p>1 to your time that you were spending on the advisory 2 board?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Did you have a written agreement 5 with Braeburn Pharmaceuticals?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Do you still have that?</p> <p>8 A. I think I could find it, yes.</p> <p>9 Q. Do you know if that agreement has now 10 expired or is it currently ongoing, you just haven't 11 done any work for them?</p> <p>12 A. I don't know the answer to that question. 13 I -- I can tell you, I'm, again, saying more than a 14 yes-or-no answer, the folks involved with that company 15 still come to ASAM meetings, American Society of 16 Addiction Medicine, I see people there, there is 17 nothing active that they are asking me to do. There 18 is the potential that there could be. So it's -- it 19 was -- I have not looked to see if there was an 20 expiration date.</p> <p>21 Q. Do you know if -- typically in advisory 22 boards is it fair to say that you are providing 23 feedback to the pharmaceutical company?</p> <p>24 MS. HIBBERT: Objection to form.</p>	<p>1 Braeburn, was that compensation being paid directly by 2 Braeburn or some other third party?</p> <p>3 A. I think it was paid by Braeburn.</p> <p>4 Q. Okay. Okay. Let's go on to the next 5 pharmaceutical company for which you worked -- did 6 work with, and -- and that one you identified as 7 BioDelivery Service -- or Sciences, is that right?</p> <p>8 A. Right.</p> <p>9 Q. Okay.</p> <p>10 A. They go by BDSI.</p> <p>11 Q. I'm sorry. Say it again. BDSI?</p> <p>12 A. SI.</p> <p>13 Q. Okay.</p> <p>14 A. For "Incorporated."</p> <p>15 Q. And what -- what were you doing for BDSI?</p> <p>16 A. Well, their product is a very, very 17 interesting product, and this was direct work and your 18 previous question was pharmaceutical company, Curry 19 Rockefeller is not a pharmaceutical company, but they 20 work -- provide services for pharmaceutical companies. 21 So some of the contract work was with Curry 22 Rockefeller as opposed to with BDSI itself, but I had 23 relationships with both regarding this particular 24 product called Bunavail, which is another formulation</p>
Page 139	Page 141
<p>1 BY THE WITNESS:</p> <p>2 A. Well, feedback means they present you 3 something and you react to it, and some of it was that 4 they would present us something and we would react to 5 it. There is a -- you know, documents that they must 6 create. I'm not recalling with this product if we met 7 before or only after the new drug application was 8 approved by the FDA, but they would sometimes show us, 9 you know, we are thinking of presenting this to the 10 FDA and do you agree with that or how would you phrase 11 it. And of course marketing materials. And so some 12 of it was feedback but some of it was just, You tell 13 us about patient types.</p> <p>14 Q. Okay. Who was your main contact at 15 Braeburn Pharmaceuticals?</p> <p>16 A. There was a -- an individual that I was 17 introduced to who arranged the relationship, and I 18 don't remember the extent to which she was on the 19 payroll or a consultant to them, and her name is 20 Sonnie Kim.</p> <p>21 Q. Okay.</p> <p>22 A. S-o-n-n-i-e, Kim, she is Korean.</p> <p>23 Q. And when you received compensation with 24 respect to your role on the advisory board for</p>	<p>1 of Buprenorphine which is a specialized partial opioid 2 agonist, a-g-o-n-i-s-t, used to treat opioid 3 addiction.</p> <p>4 Q. Okay. And it -- the -- your CV states 5 that you work -- did the work from February 2014 to 6 December 2016, is that accurate?</p> <p>7 A. Correct.</p> <p>8 Q. And I'm sorry. Curry Rockefeller, what 9 kind of entity was that or what did they do?</p> <p>10 A. It's a consulting firm that says that 11 their services are education, and so some of it is 12 developing formal patient education documents required 13 by the FDA and some is marketing materials.</p> <p>14 Q. You said the -- you said they say that 15 their services are educational in a way that made -- 16 made me think that you were thinking it was something 17 else.</p> <p>18 Is that -- did I understand you correctly 19 or not?</p> <p>20 MS. HIBBERT: Objection to form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. Well, if -- if it's -- if it's marketing 23 materials, the word "promotional" would be an 24 appropriate word.</p>

Page 142	Page 144
<p>1 BY MS. DICKINSON:</p> <p>2 Q. I -- I just want to understand, was it 3 your feeling that these educational materials were 4 really more like promotional materials?</p> <p>5 MS. HIBBERT: Objection to form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. Some yes, some no. And -- and, again, 8 some of it was also, How do you develop continuing 9 education programs for physicians. And so some of it 10 was, What would the content of a continuing education 11 program be to practicing physicians to teach them 12 about this medication.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Okay. Fair.</p> <p>15 For this engagement with Bi -- the 16 pharmaceutical company BioDelivery Sciences, were you 17 compensated?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And in what amount? Or in what 20 way, an hourly rate or daily or --</p> <p>21 A. A daily rate.</p> <p>22 Q. Okay.</p> <p>23 MS. HIBBERT: Objection to form.</p> <p>24 Dr. Miller, please give me a pause after</p>	<p>1 to your services on the advisory board?</p> <p>2 A. Yes, ma'am.</p> <p>3 Q. Did the BioDelivery Service -- Sciences 4 pay for your meals with respect to your services?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. Was there a reason that you stopped 7 working in 2016 for BioDelivery Sciences?</p> <p>8 A. They stopped supporting the product.</p> <p>9 Q. Okay. Did they ever bring that product to 10 market?</p> <p>11 A. Oh, yes.</p> <p>12 Q. Okay. What did you mean by "they stopped 13 supporting the product"?</p> <p>14 A. If you support a product, you generate 15 educational materials, you have a sales staff, a 16 marketing staff and you are really trying to actively 17 grow market share, you are trying to sell --</p> <p>18 Q. Uh-huh.</p> <p>19 A. -- more product, and they pulled all of 20 their investment in this product and went to a 21 different product. I think -- I think I'll -- I'll 22 just say that.</p> <p>23 Q. Okay. Do you -- do you know why they 24 pulled their investment and went to a different</p>
Page 143	Page 145
<p>1 the question is asked --</p> <p>2 THE WITNESS: Okay.</p> <p>3 MS. HIBBERT: -- so I can put an objection on 4 the record, okay?</p> <p>5 MS. DICKINSON:</p> <p>6 Q. And what was the daily rate that you were 7 compensated on by BioDelivery Sciences?</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 Q. And do you know how much time in between 11 2014 of -- April 20- -- I'm sorry -- December 2014 and 12 December 2016 you spent performing services for 13 BioDelivery Sciences?</p> <p>14 A. My recollection would be three days max.</p> <p>15 Q. Can you briefly describe what type of 16 services you were providing to BioDelivery Sciences?</p> <p>17 A. I think my answers that are provided for 18 Braeburn would apply to BioDelivery Sciences.</p> <p>19 Q. The same kind of work?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And the same questions as I asked 22 you for Braeburn, when you were working for 23 BioDelivery Sciences, when you were serving on the 24 advisory board, did they pay your travel with respect</p>	<p>1 product?</p> <p>2 MS. HIBBERT: Objection to form, calls for 3 speculation.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Pardon me for sounding lawyerly, but I 6 think that there was probably a confidentiality 7 agreement with them that would prevent me from sharing 8 any of that sort of information.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay. Totally fair. I don't want to get 11 you into anything that would --</p> <p>12 A. Right.</p> <p>13 Q. -- run you afoul of that.</p> <p>14 So had -- you said they went to a new 15 product -- or BioDelivery Sciences went to a new 16 product.</p> <p>17 What was the new product?</p> <p>18 A. I don't remember the name of it, but I 19 could describe it to you.</p> <p>20 Q. Okay. Please do.</p> <p>21 A. Okay. What is unique about this product 22 is the engineering of how it's delivered to the 23 bloodstream, and it's -- the engineering has to do 24 with a patch that you don't put on your skin and it's</p>

Page 146	Page 148
<p>1 not like some other Buprenorphine products that you 2 put under your tongue and dissolve, but it's a patch 3 that you place on the inside of your cheek. 4 Q. Okay. 5 A. And it has a special engineering to stick 6 to the inside of your cheek and it has a special 7 engineering for the active ingredient to flow from the 8 product into your bloodstream -- 9 Q. Okay. 10 A. -- which has to do with all sorts of 11 physiology and pharmacology and physics, and that was 12 the engineering. 13 And they developed another product using 14 that engineering that was a treatment for pain as 15 opposed to a treatment for addiction and had a 16 different brand name, a different strength, and they 17 thought that their -- buccal means inside the cheek -- 18 they thought that product would have a better chance 19 of improving the company's bottom line than the 20 Bunavail product. 21 Q. Did they stop selling the original 22 Bunavail product? 23 A. No, you -- 24 MS. HIBBERT: Objection to form.</p>	<p>1 with it. 2 BY MS. DICKINSON: 3 Q. Did you use BioDelivery Sciences's product 4 Bunavail at any time in your practice? 5 A. Yes. 6 Q. How often? Frequently? 7 A. No. 8 Q. Did you use the -- the other product, the 9 one that was in the treatment for pain in your 10 practice at any time? 11 A. No, ma'am. 12 Q. Okay. Why not? 13 A. Because I'm not a pain medicine doctor. 14 Q. I forgot to ask you with respect to your 15 work for Braeburn Pharmaceuticals, did you use -- or 16 did their product come to market? I'm sorry. 17 A. Yes. 18 Q. And did you use their product in your 19 practice? 20 A. No. 21 Q. Why not? 22 A. Because I never went through the training 23 because it's an injectable and there are specific 24 things you have to do to be trained to be someone to</p>
<p style="text-align: center;">Page 147</p> <p>1 BY THE WITNESS: 2 A. -- you can buy it today. You can -- I can 3 prescribe it today. 4 BY MS. DICKINSON: 5 Q. But internally they stopped -- I think 6 your words were "supporting" -- 7 A. Right. 8 Q. -- the Bunavail product, correct? 9 A. Right. 10 Q. Okay. And were they then turning to 11 supporting the new product that was being used in the 12 treatment for pain instead, is that a fair -- 13 A. That's my understanding. 14 MS. HIBBERT: Objection to form. 15 Dr. Miller -- 16 THE WITNESS: Oh, I'm sorry. 17 BY MS. DICKINSON: 18 Q. And at that time is that the reason you 19 stopped working for BioDelivery Sciences? 20 MS. HIBBERT: Objection to form. 21 BY THE WITNESS: 22 A. Yes. I really liked the product and I 23 wished they had kept it going, and they stopped the 24 support which included paying physicians to help them</p>	<p style="text-align: center;">Page 149</p> <p>1 put the implant in and take the implant out. 2 Q. Was it -- it wasn't something you thought 3 would be useful in your practice, I take it? 4 MS. HIBBERT: Objection to form. 5 BY THE WITNESS: 6 A. I believe the product has merit and could 7 have been helpful to some of my patients, but I 8 decided to not go through the steps required to obtain 9 the expertise to do a minor office surgical procedure 10 in the practice settings where I practiced because it 11 is a minor surgical procedure. 12 BY MS. DICKINSON: 13 Q. Okay. All right. Let's move to the next 14 one, Purdue Pharma. 15 A. Yes, ma'am. 16 Q. I see from your CV that you did work for 17 Purdue Pharma, it says from October 2016 to 18 December 2016. 19 Is that accurate? 20 A. Yes, ma'am. 21 Q. Okay. Was that the first, October 2016, 22 was that the first time you had ever worked with 23 Purdue Pharma? 24 A. Yes, ma'am.</p>

Page 150	Page 152
<p>1 Q. Had you ever come in contact with anyone 2 at Purdue Pharma prior to October 2016?</p> <p>3 MS. HIBBERT: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. Could you restate that?</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Yes.</p> <p>8 Had you ever come in contact with anyone 9 at Purdue Pharma prior to the time you went to work 10 for them in October of 2016?</p> <p>11 MS. HIBBERT: Same objection.</p> <p>12 BY THE WITNESS:</p> <p>13 A. I was in places where their sales force 14 was promoting their drug, exhibits at meetings. 15 Because I didn't prescribe their products, I didn't 16 talk to them about it. I would say I had no contact 17 with any quote/unquote corporate types. So there is 18 nothing of substance that I would say would be an 19 affirmative answer to your question before I got this 20 phone call from Purdue Pharma.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Okay. What types of meetings would you be 23 at where there were sales representatives promoting 24 products to other doctors?</p>	<p>1 October 2016 the first date on which you performed 2 work for Purdue?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. How did you first come in contact 5 with Purdue Pharma?</p> <p>6 A. I got a phone call --</p> <p>7 MS. HIBBERT: Objection to form.</p> <p>8 THE WITNESS: Sorry.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Go ahead.</p> <p>11 Do you want me to repeat the question?</p> <p>12 A. No.</p> <p>13 Q. How did you first come in contact with 14 Purdue Pharma?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I got a phone call from a member of their 18 staff.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. Who is that?</p> <p>21 A. Gina Barbara -- Barbarotta, I believe it 22 is.</p> <p>23 Q. Could you give her your best idea of how 24 that is spelled, her last name?</p>
Page 151	Page 153
<p>1 MS. HIBBERT: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. Medical conferences where there would be 4 an exhibit hall.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. Okay. Can you give me a couple of 7 examples of what types of medical conferences you were 8 attending where there would be sales reps promoting 9 Purdue's products?</p> <p>10 MS. HIBBERT: Objection to the form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. Madam, that's a very good question because 13 I'm originally trained in psychiatry and I go to 14 psychiatry meetings and I am an addiction medicine 15 physician, go to addiction meetings, and I'm trying to 16 think if I ever, for instance, would speak at a pain 17 conference. Certainly I've -- I've been -- yes, I've 18 been on the faculty for a pain board review course 19 right here in Madison at the university. And there 20 could have been Purdue Pharma reps having an 21 exhibit promoting their pain products to pain doctors 22 at those sorts of meetings.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. Okay. What was the first -- was</p>	<p>1 A. Again, I -- I don't have any devices here, 2 so I can't look her up, because she is not with them 3 anymore, but B-a-r-b-a-r-o-t-t-a, I believe it is. 4 G-i-n-a, Gina Barbarotta.</p> <p>5 Q. Did you know Ms. Barbarotta before you 6 received the phone call?</p> <p>7 A. I did not.</p> <p>8 Q. Okay. Who -- what position did 9 Ms. Barbarotta hold at Purdue at the time you received 10 the phone call?</p> <p>11 A. My understanding is that her job was to 12 help populate physician advisory boards for them. She 13 would find physicians to sit on ad boards.</p> <p>14 Q. And is that what the phone call was asking 15 you to do?</p> <p>16 A. It was, but it was a different kind of ad 17 board.</p> <p>18 Q. Okay. Let's talk about that. So what was 19 Ms. Barbarotta asking you to do?</p> <p>20 MS. HIBBERT: Objection to form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. She was asking me to sit on an advisory 23 board, not for a pain medication or a product they 24 were selling, but to sit on an ad board to advise</p>

Page 154	Page 156
<p>1 senior leadership of Purdue Pharma about addiction.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Okay. Anything else she told you about</p> <p>4 what she wanted you to do when you had that first</p> <p>5 conversation?</p> <p>6 A. My best guess is that any answer to that</p> <p>7 question or follow-up questions of a similar type</p> <p>8 would be covered by a confidentiality agreement I</p> <p>9 signed with Purdue Pharma regarding being a member of</p> <p>10 this addiction advisory board that I sat on.</p> <p>11 Q. Okay. Do you -- can you tell me who the</p> <p>12 senior leadership was that you were hired to advise</p> <p>13 about addiction?</p> <p>14 MS. HIBBERT: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. There was a -- I believe he was the chief</p> <p>17 medical officer for the company. When we met I</p> <p>18 believe, if my memory serves me, the chief marketing</p> <p>19 officer and the CEO of the whole company sat in for</p> <p>20 part of the meeting.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Okay. How many -- how many meetings did</p> <p>23 you have in the course of sitting on this advisory</p> <p>24 board for Purdue Pharma?</p>	<p>1 Q. I think you told me that -- a minute ago</p> <p>2 that the chief marketing officer --</p> <p>3 A. Yes, sir -- yes, ma'am.</p> <p>4 Q. -- and the chief medical officer sat in on</p> <p>5 a meeting that you had at Purdue, was -- did the chief</p> <p>6 marketing officer and the chief medical officer sit in</p> <p>7 on that meeting in October?</p> <p>8 MS. HIBBERT: Objection; form, mischaracterizes.</p> <p>9 He said he believes that they may have.</p> <p>10 But you can answer, Dr. Miller.</p> <p>11 BY THE WITNESS:</p> <p>12 A. Yes.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Okay. I'm going to ask the question again</p> <p>15 because I'm totally confused now.</p> <p>16 Is your answer yes that -- that you</p> <p>17 believe the chief marketing officer and the chief</p> <p>18 medical officer were at that October meeting?</p> <p>19 MS. HIBBERT: Objection to form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. Yes.</p> <p>22 BY MS. DICKINSON:</p> <p>23 Q. Okay. Do you know either one of those</p> <p>24 individuals' names?</p>
<p style="text-align: center;">Page 155</p> <p>1 A. One face-to-face meeting and I think two</p> <p>2 follow-up conference calls.</p> <p>3 Q. Okay. Tell me when the face-to-face</p> <p>4 meeting was? Was it sometime during -- between</p> <p>5 October and December of 2016?</p> <p>6 A. I believe it was in October.</p> <p>7 Q. Okay. And who was present at the</p> <p>8 face-to-face meeting?</p> <p>9 A. Physicians, many of whom I knew from the</p> <p>10 addiction community, and a variety of employees from</p> <p>11 Purdue. I would say 60 to 75 percent of the people in</p> <p>12 the room were Purdue people because they wanted to</p> <p>13 have a large number of their people hear directly what</p> <p>14 the advisers were sharing.</p> <p>15 Q. Okay. How many people from Purdue would</p> <p>16 you estimate were in the room on that day?</p> <p>17 MS. HIBBERT: Objection to form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. I would say between 15 and 20.</p> <p>20 BY MS. DICKINSON:</p> <p>21 Q. Okay. And that included both the chief</p> <p>22 marketing officer and the chief medical officer?</p> <p>23 MS. HIBBERT: Objection to form.</p> <p>24 BY MS. DICKINSON:</p>	<p style="text-align: center;">Page 157</p> <p>1 A. I also don't know if they are still there.</p> <p>2 Q. That's okay.</p> <p>3 Do you know either one of those two</p> <p>4 individuals' names?</p> <p>5 A. Uhn-uhn.</p> <p>6 Q. Okay.</p> <p>7 A. I'm sorry, ma'am, to the transcriptionist,</p> <p>8 "no," not "uhn-uhn."</p> <p>9 Q. Do you -- other than Ms. Barbarotta, do</p> <p>10 you know any of the other Purdue employees' names that</p> <p>11 were in the room of the 15 to 20 people?</p> <p>12 A. David Haddox was there.</p> <p>13 Q. Okay. Did you know Dr. Haddox before this</p> <p>14 October meeting?</p> <p>15 A. Yes.</p> <p>16 Q. How?</p> <p>17 A. He came to ASAM conferences because he is</p> <p>18 a member.</p> <p>19 Q. When did you first meet David Haddox?</p> <p>20 A. I don't remember, but I would estimate it</p> <p>21 was at least four years prior and maybe a long time</p> <p>22 before that.</p> <p>23 Q. Okay. How often per year did you interact</p> <p>24 with David Haddox?</p>

Page 158	Page 160
<p>1 A. Less than once a year. Let me answer your 2 question. I think I probably ran into David four to 3 six times over a span of years.</p> <p>4 Q. Okay. During those four to six times, did 5 you ever have substantive interaction with David 6 Haddox on the issue of opioids?</p> <p>7 MS. HIBBERT: Objection to form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. I'm going to speculate and give you a -- a 10 yes answer to that.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. Okay. What was the substance of the 13 conversation you had with David Haddox on the 14 substance -- that had to do with opioids?</p> <p>15 MS. HIBBERT: Objection to form, calls for 16 speculation.</p> <p>17 BY THE WITNESS:</p> <p>18 A. The American Society of Addiction Medicine 19 has offered a special continuing education course for 20 20 years now called "Pain and Addiction: Common 21 Threads."</p> <p>22 Q. Okay.</p> <p>23 A. I have been on the faculty of that course 24 a number of times and have served on the program</p>	<p>1 with addiction who has pain, how do you manage pain in 2 a patient with addiction, and would you ever use an 3 opioid to treat pain in a patient with addiction. And 4 certainly Dr. Haddox had opinions about that, as would 5 other people.</p> <p>6 So that -- that's -- when you said was 7 there a discussion about substance, that's what it 8 would have included.</p> <p>9 Q. Did you ever have lunches or dinner with 10 Dr. Haddox outside of presentations at ASAM?</p> <p>11 MS. HIBBERT: Objection to form.</p> <p>12 BY THE WITNESS:</p> <p>13 A. None that I can recall.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. Did you have -- for your work with Purdue 16 Pharma, did you have a written agreement?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Do you still have a copy of that?</p> <p>19 A. Probably.</p> <p>20 Q. Okay.</p> <p>21 Was the written agreement to provide 22 services on their advisory board that we just 23 discussed?</p> <p>24 MS. HIBBERT: Objection to form.</p>
Page 159	Page 161
<p>1 committee for that course for a number of years, all 2 of which is reflected somewhere in Exhibit 3.</p> <p>3 Q. Okay.</p> <p>4 A. Both of those, look for the words "Common 5 Threads."</p> <p>6 Dr. Haddox attended and served as faculty. 7 I don't believe he ever served on the program 8 committee. But I would interact with him by sitting 9 in the audience with him, we would discuss informally 10 presentations that were made. We were acquainted.</p> <p>11 I will go a bit afield and say I was 12 President of the American Society of Addiction 13 Medicine, so I was more known to others than I would 14 know them. Everybody knows who the president is.</p> <p>15 Q. Right.</p> <p>16 A. And so he made himself familiar to the 17 president. So we had an acquaintanceship through the 18 American Society of Addiction Medicine where he was a 19 dues paying member, so we were equals in that regard.</p> <p>20 So that's where -- or that would be the 21 context in which we might have interactions regarding 22 the substance of opioids, and one of the main purposes 23 of the Common Threads course is what do you do if 24 there is a common thread, what if you have a patient</p>	<p>1 BY THE WITNESS: 2 A. On this advisory board, yes.</p> <p>3 BY MS. DICKINSON: 4 Q. Did you provide any services to Purdue 5 Pharma other than work on this advisory board?</p> <p>6 A. No.</p> <p>7 Q. Okay. You said there was a one-day 8 meeting.</p> <p>9 Where did that take place?</p> <p>10 A. Corporate headquarters, Stamford, 11 Connecticut.</p> <p>12 Q. Okay.</p> <p>13 And you said there were a number of 14 physicians in attendance. Were those physicians also 15 members of the advisory board?</p> <p>16 A. Yes.</p> <p>17 Q. Can you tell me who any of those 18 physicians were?</p> <p>19 A. The one I have the greatest recollection 20 of is my friend and colleague, David Gastfriend, 21 G-a-s-t-f-r-i-e-n-d, M.D.</p> <p>22 Q. Okay. Anyone else that you can remember 23 that was at that meeting that was a physician?</p> <p>24 A. I do not have specific recollections of</p>

Page 162	Page 164
<p>1 others besides David.</p> <p>2 Q. Do you know -- did -- did the physicians</p> <p>3 on the advisory board that day give presentations?</p> <p>4 A. No.</p> <p>5 Q. Okay. What -- what was the structure of</p> <p>6 the one-day meeting?</p> <p>7 MS. HIBBERT: Objection to form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. Roundtable.</p> <p>10 BY MS. DICKINSON:</p> <p>11 Q. Did it have an agenda?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know what types of issues were on</p> <p>14 that agenda?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. Yes.</p> <p>18 BY MS. DICKINSON:</p> <p>19 Q. Okay. What types of issues?</p> <p>20 MR. HADAGHIAN: Counsel for Purdue joins the</p> <p>21 objection.</p> <p>22 (Reporter clarification.)</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. I'm sorry. Do you know what types of</p>	<p>1 to throw out some ideas that quite honestly I thought</p> <p>2 was off topic and I think my colleagues thought was</p> <p>3 off topic, and it was like, What -- what's all this.</p> <p>4 And we were not terribly helpful to them because we</p> <p>5 said, You're choosing the time to do that, we thought</p> <p>6 we were going to talk about addiction.</p> <p>7 So the agenda included that they wanted to</p> <p>8 throw these things in that we thought were not</p> <p>9 pertinent to what we were doing in giving them advice,</p> <p>10 but -- so that's general subject headings, but you</p> <p>11 said -- what was it -- so in general, no, none of</p> <p>12 the -- none of the physician experts who were brought</p> <p>13 in gave presentations. We all were in a roundtable</p> <p>14 discussing concepts and brainstorming.</p> <p>15 Q. Okay. Did you feel like the other</p> <p>16 subjects that were thrown in about abuse deterrent</p> <p>17 formulations, did you feel like that was a sales</p> <p>18 pitch?</p> <p>19 MS. HIBBERT: Objection to form.</p> <p>20 MR. HADAGHIAN: Counsel for Purdue joins the</p> <p>21 objection.</p> <p>22 BY MS. DICKINSON:</p> <p>23 Q. Go ahead.</p> <p>24 A. I believe -- I believe you understand that</p>
<p style="text-align: center;">Page 163</p> <p>1 issues were on the agenda at that October meeting?</p> <p>2 MS. HIBBERT: I'll object to form and also to</p> <p>3 the extent that any of these -- this information is</p> <p>4 protected pursuant to your confidentiality agreement,</p> <p>5 I would instruct the witness not to answer.</p> <p>6 MR. HADAGHIAN: Counsel for Purdue joins the</p> <p>7 objection.</p> <p>8 BY THE WITNESS:</p> <p>9 A. I believe I can say something general that</p> <p>10 is not forbidden by the confidentiality agreement.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. Okay.</p> <p>13 A. Again, in general, actually what we were</p> <p>14 told is that this would be experts to advise Purdue on</p> <p>15 what it could do about addiction. And the substance</p> <p>16 of what we advised them I certainly can't share with</p> <p>17 you.</p> <p>18 In the course of the day other than the</p> <p>19 roundtable they threw in a couple of extra things, and</p> <p>20 one was to present data on other products that they</p> <p>21 had that had reached market or were being considered</p> <p>22 for market, and I would put this under the overall</p> <p>23 category of abuse deterrent formulations. So some of</p> <p>24 their medication development folks used this audience</p>	<p style="text-align: center;">Page 165</p> <p>1 this has nothing to do with the opinions I was asked</p> <p>2 to formulate in this case.</p> <p>3 Q. Understood.</p> <p>4 A. This is completely off topic.</p> <p>5 So you are asking my beliefs?</p> <p>6 Q. Well, you understand that Purdue is a</p> <p>7 defendant in this case, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. So I'm going to ask you again, you</p> <p>10 stated that -- that some of the topics of that</p> <p>11 roundtable were off topic for what you understood was</p> <p>12 going to happen that day, is that fair?</p> <p>13 A. Correct.</p> <p>14 MS. HIBBERT: Objection; form.</p> <p>15 BY MS. DICKINSON:</p> <p>16 Q. And did you feel like those topics that</p> <p>17 were off topics were kind of part of a sales pitch?</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 MR. HADAGHIAN: Purdue joins the objection.</p> <p>20 BY THE WITNESS:</p> <p>21 A. I -- I would actually not characterize it</p> <p>22 in that way, no, ma'am.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. How would you characterize it?</p>

Page 166	Page 168
<p>1 MS. HIBBERT: Objection to form.</p> <p>2 MR. HADAGHIAN: Counsel for Purdue joins the</p> <p>3 objection.</p> <p>4 BY THE WITNESS:</p> <p>5 A. It was more about, What are you experts on</p> <p>6 addiction, because you are not pain experts, we get</p> <p>7 advice from them in other ad boards, what do you</p> <p>8 experts on addiction think of this material we are</p> <p>9 sharing with you, just react to it. So i -- I did not</p> <p>10 see it as a sales pitch.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. Okay. Did -- did the group on the</p> <p>13 advisory board give their opinions and reactions to</p> <p>14 people at Purdue?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 MR. HADAGHIAN: Counsel for Purdue joins the</p> <p>17 objection.</p> <p>18 BY THE WITNESS:</p> <p>19 A. We did.</p> <p>20 BY MS. DICKINSON:</p> <p>21 Q. Okay. Do you know -- did -- did the group</p> <p>22 make any recommendations to Purdue of things they</p> <p>23 should do differently or the same?</p> <p>24 MS. HIBBERT: Objection to form.</p>	<p>1 A. There -- there were certainly long time</p> <p>2 friends and acquaintances there, but I don't remember</p> <p>3 who was in that room that day.</p> <p>4 Q. Okay. You said you had a written</p> <p>5 agreement with Purdue.</p> <p>6 What was the compensation under that</p> <p>7 written agreement?</p> <p>8 A. It was a daily rate.</p> <p>9 Q. And do you know how much that was?</p> <p>10 [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>13 Q. Okay. And were you paid for the day that</p> <p>14 you spent in October of 2016?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And with respect to traveling to</p> <p>17 Purdue's corporate headquarters, did Purdue pay for</p> <p>18 the travel?</p> <p>19 A. Yes.</p> <p>20 Q. Did Purdue pay for your meals during that</p> <p>21 time that you were -- spent traveling to that meeting?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Aside from that day, did you do any</p> <p>24 other work for Purdue under the agreement you signed</p>
Page 167	Page 169
<p>1 MR. HADAGHIAN: Counsel for Purdue joins the</p> <p>2 objection.</p> <p>3 BY THE WITNESS:</p> <p>4 A. We do what we are asked to do, yes.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. Okay. And do you know if any of those</p> <p>7 recommendations were followed by Purdue?</p> <p>8 MS. HIBBERT: Objection to form. It calls for</p> <p>9 speculation.</p> <p>10 BY THE WITNESS:</p> <p>11 A. I do not know.</p> <p>12 MS. HADAGHIAN: Counsel for Purdue joins the</p> <p>13 objection.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. Which colleagues in the field of addiction</p> <p>16 medicine also were sitting on the Purdue advisory</p> <p>17 board that you were sitting on, other than I think you</p> <p>18 mentioned -- I'm sorry, the gentlemen you mentioned, I</p> <p>19 can't remember his name?</p> <p>20 A. His name is Gastfriend and --</p> <p>21 Q. Okay.</p> <p>22 A. -- and what I've already testified is I</p> <p>23 don't remember any other specific people.</p> <p>24 Q. Okay.</p>	<p>1 to be on their advisory board?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. What other work did you do?</p> <p>4 A. I joined in conference calls that were</p> <p>5 follow-up to the face-to-face meeting.</p> <p>6 Q. Okay. How many conference calls in the</p> <p>7 months that you served on the advisory board did you</p> <p>8 participate in?</p> <p>9 A. My memory is that there were two that I</p> <p>10 participated in.</p> <p>11 Q. Do you know how long those were in length?</p> <p>12 A. An hour or less.</p> <p>13 Q. Okay. And were you paid for your time on</p> <p>14 those conference calls by Purdue?</p> <p>15 A. I do not think I was.</p> <p>16 Q. Did you participate in any written</p> <p>17 communication or e-mail communication with folks at</p> <p>18 Purdue pursuant to the agreement that you had between</p> <p>19 October 2016 and December 2016?</p> <p>20 MS. HIBBERT: Objection to form.</p> <p>21 BY THE WITNESS:</p> <p>22 A. I believe I did.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. Okay. Who were you communicating with?</p>

<p style="text-align: right;">Page 170</p> <p>1 A. The point person who the Purdue hierarchy 2 assigned to this was the CMO, and so I believe there 3 was e-mail exchange with him.</p> <p>4 Q. And who was the CMO?</p> <p>5 A. I have no idea.</p> <p>6 Q. Okay. What was the purpose of the e-mail 7 exchange with the CMO following the meeting in October 8 of 2016?</p> <p>9 MS. HIBBERT: Objection to form.</p> <p>10 MS. HADAGHIAN: Purdue joins the objection.</p> <p>11 BY THE WITNESS:</p> <p>12 A. Yeah. I believe you previously asked me 13 did we provide any ideas to them. And the conference 14 call, I think the first one was: This is the list of 15 what we heard you say. Did we hear correctly? We 16 just want to know if this list is an accurate list. 17 And then another call was an update on what might 18 happen regarding any implementation, and that was it.</p> <p>19 Q. What was being discussed to be 20 implemented?</p> <p>21 MS. HIBBERT: Objection to form.</p> <p>22 BY THE WITNESS:</p> <p>23 A. That's -- I think that's definitely --</p> <p>24 MS. HADAGHIAN: Purdue --</p>	<p style="text-align: right;">Page 172</p> <p>1 with Dr. Miller here today, I've not instructed him, I 2 don't think, not to answer specific questions as to 3 this, but with regard to what Dr. Miller feels 4 comfortable answering pursuant to his confidentiality 5 agreement, I can't control, he is the only person that 6 knows about that, and the -- maybe counsel for Purdue, 7 too. I -- I won't also advise him to answer questions 8 pertaining to matters that may or may not have been 9 put into the record into this case. I haven't seen 10 those documents. I haven't shown those document -- 11 documents to Dr. Miller. So if he doesn't feel 12 comfortable providing responses because he believes 13 the responses are covered pursuant to his 14 confidentiality agreement, that's a decision that 15 Dr. Miller has to make, but I am not instructing him 16 not to answer based on the -- his own confidentiality 17 agreement.</p> <p>18 Counsel for Purdue, I don't know if you 19 have any other comment on that, but...</p> <p>20 MS. HADAGHIAN: Purdue's position is consistent 21 with what counsel for Dr. Miller has stated.</p> <p>22 BY THE WITNESS:</p> <p>23 A. And -- and my answer is I'm trying to make 24 them general. I think they are not a violation of the</p>
<p style="text-align: right;">Page 171</p> <p>1 BY THE WITNESS:</p> <p>2 A. That's --</p> <p>3 MS. HADAGHIAN: Purdue joins the objection.</p> <p>4 I'm sorry for interrupting, Dr. Miller.</p> <p>5 THE WITNESS: No, that's quite all right.</p> <p>6 BY THE WITNESS:</p> <p>7 A. But I was going to say that's -- that 8 would definitely be covered by the confidentiality 9 agreement.</p> <p>10 MS. DICKINSON: Counsel, are you taking the 11 position that he can't answer these questions because 12 I -- I think documents have actually been produced 13 about his participation in the advisory board and 14 e-mails -- the e-mail exchanges have been produced.</p> <p>15 Are you taking the position he can't 16 answer these questions? I think any confidentiality 17 has probably been waived by the production. If you 18 want to mark the transcript confidential, I 19 understand, maybe you have a position there, but the 20 questions about it, I'm not sure you can instruct him 21 not to answer if the documents have been produced in 22 the case.</p> <p>23 MS. HIBBERT: I don't know what Purdue's 24 position is on this, but my position as being here</p>	<p style="text-align: right;">Page 173</p> <p>1 confidentiality agreement I signed. There was an ad 2 board. It wasn't about a product. It was general, 3 and this is why addiction experts were brought in. 4 Were we asked to provide ideas, yes. Did they write 5 them down, yes. Do I know if they implemented them, 6 no. And specific advice we gave then, that's what 7 they paid for in confidence and that would be 8 propriety. So that's the way I'm dealing with this --</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay.</p> <p>11 A. -- line of questions.</p> <p>12 Q. Fair.</p> <p>13 Do you believe that written down and 14 summarized in these either e-mail exchanges or in some 15 written form following the first meeting were the 16 ideas that were discussed? You don't have to tell me 17 what was in the written form.</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 MS. HADAGHIAN: Purdue objects to form.</p> <p>20 BY MS. DICKINSON:</p> <p>21 Q. Go ahead.</p> <p>22 A. I would think so.</p> <p>23 Q. Okay. Did you see documents that were 24 summarizing the discussion from the October meeting?</p>

Page 174	Page 176
<p>1 MS. HIBBERT: Objection to form.</p> <p>2 MS. HADAGHIAN: Purdue joins the objection.</p> <p>3 BY THE WITNESS:</p> <p>4 A. I'm not trying to be splitting hairs, but</p> <p>5 I think "related to" would be a better term than</p> <p>6 "summarized" because I don't think it was a -- an</p> <p>7 encapsulation, but it was related to the discussions</p> <p>8 we had, yes.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay. Were there minutes from the</p> <p>11 October meeting that you ever saw?</p> <p>12 A. No.</p> <p>13 Q. Okay. Were there written documents that</p> <p>14 discussed some of the ideas that were discussed at the</p> <p>15 October meeting that you saw?</p> <p>16 MS. HIBBERT: Objection --</p> <p>17 MS. HADAGHIAN: Purdue objects to form. And I</p> <p>18 apologize if I interrupted.</p> <p>19 MS. HIBBERT: That's okay. I join the</p> <p>20 objection.</p> <p>21 BY THE WITNESS:</p> <p>22 A. Not wanting to make a misstep in my</p> <p>23 answer, yes, there were e-mails that would have</p> <p>24 content. I believe that, you know, that e-mails can</p>	<p>1 attitude about all of this, we hoped Purdue was doing</p> <p>2 this in good faith. We thought there was a chance</p> <p>3 they were doing it in good faith. We had no idea what</p> <p>4 would happen as a result of this. We gave them some</p> <p>5 pretty good and provocative ideas.</p> <p>6 After a relatively brief period of time,</p> <p>7 one of the comments made was, We want broad input on</p> <p>8 this. We're probably going to rotate the membership</p> <p>9 of this advisory board and maybe you'll be in it after</p> <p>10 January 1st and maybe you won't. And after this brief</p> <p>11 of an engagement, I found that curious. And basically</p> <p>12 by the time the calendar year 2016 ended, they said</p> <p>13 something not explicit but sort of in the ballpark of,</p> <p>14 Thank you. We don't need you anymore and you are not</p> <p>15 going to be involved anymore, and they -- and so,</p> <p>16 honestly, honestly, because I revise my CV from time</p> <p>17 to time, nothing happened after December '16, but it</p> <p>18 was open-ended and I called Ms. -- Ms. Barbarotta and</p> <p>19 I said, What would you say was the end date of this</p> <p>20 deal? And she said, December 16th. So that's what I</p> <p>21 put down. I probably entered that date a year or two</p> <p>22 later. So it was just sort of -- it just sort of</p> <p>23 evaporated.</p> <p>24 BY MS. DICKINSON:</p>
<p style="text-align: center;">Page 175</p> <p>1 have more informality than form -- than final</p> <p>2 documents. I don't know that any of the e-mails</p> <p>3 represented documents. They may list ideas, points or</p> <p>4 concepts. How much that ever became part of a</p> <p>5 document, I have no idea.</p> <p>6 Do I ever recall getting an e-mail</p> <p>7 attachment of a Purdue synopsis or anything like that,</p> <p>8 no. I just recall getting an e-mail -- getting</p> <p>9 e-mails where, Ladies and gentlemen, we think this is</p> <p>10 what you said, does this reflect that, and any further</p> <p>11 elaboration you have on the ideas that we brainstormed</p> <p>12 about. I think that's about as far as it goes.</p> <p>13 Q. Okay. Your CV lists the relationship for</p> <p>14 Purdue ending in December 2016. How did the</p> <p>15 relationship end?</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 MS. HADAGHIAN: Purdue joins the objection.</p> <p>18 THE WITNESS: Should I proceed with an answer?</p> <p>19 MS. HIBBERT: Yes. To the extent that you can,</p> <p>20 yes.</p> <p>21 BY THE WITNESS:</p> <p>22 A. Yeah, no. It was interesting, I'll --</p> <p>23 I'll speak under oath that this is my opinion and my</p> <p>24 recollection -- not my opinion, my -- my -- my</p>	<p style="text-align: center;">Page 177</p> <p>1 Q. After December of 2016, did you have any</p> <p>2 further contact with Purdue at any time?</p> <p>3 A. I had further contact with --</p> <p>4 MS. HADAGHIAN: Purdue objects to form.</p> <p>5 THE WITNESS: I'm sorry, ma'am. Pardon me.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Go ahead.</p> <p>8 MS. HADAGHIAN: I apologize. Please go ahead.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY THE WITNESS:</p> <p>11 A. I had a few conversations with</p> <p>12 Ms. Barbarotta along the line of, Hey, what's going</p> <p>13 on, because at that time I still had it open, anything</p> <p>14 going on, you need me for anything, and her answer</p> <p>15 was, I hadn't heard anything from home office that</p> <p>16 anything is happening on this. So I touched base with</p> <p>17 her a couple of times to say, Is this an active deal</p> <p>18 and she said not for you at this time. And then</p> <p>19 eventually I came to understand that she found another</p> <p>20 professional opportunity.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. How did you come to understand that?</p> <p>23 A. She told me.</p> <p>24 Q. Okay. When did you talk to her about when</p>

Page 178	Page 180
<p>1 she came to take another professional opportunity?</p> <p>2 A. Whenever it happened. I don't -- I would</p> <p>3 say probably -- probably in '18.</p> <p>4 Q. Did she tell you why she was leaving</p> <p>5 Purdue?</p> <p>6 A. No.</p> <p>7 Q. Why were you talking to her in 2018?</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 MS. HADAGHIAN: Purdue objects to form.</p> <p>10 BY MS. DICKINSON:</p> <p>11 Q. Go ahead.</p> <p>12 A. We were connected on LinkedIn and so I can</p> <p>13 speculate that I would have posted something on</p> <p>14 LinkedIn that she may have at one point said, Oh, good</p> <p>15 comment. Or that she put something on LinkedIn and I</p> <p>16 had said, Good comment. And then I think probably</p> <p>17 what happened was I saw that she had posted something</p> <p>18 on LinkedIn, you know how these things work.</p> <p>19 Q. Uh-huh.</p> <p>20 A. And she had a different title, different</p> <p>21 company. And I wrote and said, Hey, you are no longer</p> <p>22 at Purdue. And she goes, No. And that was it.</p> <p>23 Q. Do you know where she went after Purdue?</p> <p>24 A. No. It's in her LinkedIn. Go look -- go</p>	<p>1 Louisville, Kentucky that is marketing and</p> <p>2 distributing a medication for the treatment of opioid</p> <p>3 withdrawal. It's a non-opioid medication.</p> <p>4 Q. Okay. And your CV lists November 4, 2017</p> <p>5 as a date that you worked for US Meds and also a</p> <p>6 little bit later, September 2018 to present.</p> <p>7 Are those both accurate?</p> <p>8 A. They are accurate, but it might require</p> <p>9 some elaboration.</p> <p>10 Q. Yes, okay. So let's just take them in</p> <p>11 turn.</p> <p>12 The first one lists a Opioid Withdrawal</p> <p>13 Leaders Forum Advisory Group on November 24th, 2017.</p> <p>14 Have I read that correctly?</p> <p>15 A. Yes, ma'am.</p> <p>16 MS. HIBBERT: I'll object to form. That's not</p> <p>17 the date it says, but...</p> <p>18 BY MS. DICKINSON:</p> <p>19 Q. November 4th, 2017.</p> <p>20 MS. HIBBERT: You said 24th, but...</p> <p>21 MS. DICKINSON: Oh, I'm sorry.</p> <p>22 MS. HIBBERT: Just so the record is clear.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. Doctor, let's read it again. This -- part</p>
Page 179	Page 181
<p>1 look her up.</p> <p>2 Q. Okay.</p> <p>3 After the advisory committee and those two</p> <p>4 phone calls, I take it from your comments, but I want</p> <p>5 to make sure, that no one at Purdue ever reached out</p> <p>6 to you again for your opinions or to serve on a</p> <p>7 further advisory board, is that true?</p> <p>8 A. Right. Except -- they did not reach out</p> <p>9 after things came to whatever end they came to at the</p> <p>10 end of 2016.</p> <p>11 Q. Okay. Have you had at Pur -- have you had</p> <p>12 any interaction with anyone at Purdue about any</p> <p>13 addiction treatment drugs that they have either</p> <p>14 patented or are considering?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 MS. HADAGHIAN: Purdue joins the objection.</p> <p>17 BY THE WITNESS:</p> <p>18 A. No.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. Okay. You -- let's go to the last</p> <p>21 pharmaceutical company that you listed on -- under</p> <p>22 Consulting Positions that you worked for.</p> <p>23 US WorldMeds. What is US WorldMeds?</p> <p>24 A. It's a pharmaceutical company in</p>	<p>1 of your CV lists a withdrawal -- Opioid Withdrawal</p> <p>2 Leaders Forum Advisory Group on November 4th of 2017.</p> <p>3 Have I read that correctly?</p> <p>4 A. Yes, ma'am.</p> <p>5 Q. Okay. And were you hired by US WorldMeds</p> <p>6 pharmaceutical company to do some work with respect to</p> <p>7 their Opioid Withdrawal Leaders Forum?</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. My recollection is that a third party</p> <p>11 found the participants and then all of the payments</p> <p>12 were through US WorldMeds.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Okay. Who is the third party?</p> <p>15 A. I'm drawing a blank.</p> <p>16 Q. Okay. Do you know when you were first</p> <p>17 contacted by -- by anyone regarding US WorldMeds?</p> <p>18 A. I would guess it was within 60 days of</p> <p>19 that face-to-face meeting in November.</p> <p>20 Q. Okay. 60 days prior?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. What -- what were the service -- were you</p> <p>23 hired to perform services on an advisory board for</p> <p>24 US WorldMeds?</p>

Page 186	Page 188
<p>1 Q. Dr. Miller, we are back on the record 2 after a short break. 3 We were just discussing the last 4 pharmaceutical company that you worked for that's on 5 your CV, US WorldMeds. 6 Do you recall that? 7 A. Yes, ma'am. 8 Q. Okay. We had briefly started talking 9 about the first entry for US WorldMeds which was an 10 advisory group. 11 Is -- am I correct that in that advisory 12 group one of the things you were advising on was the 13 slide deck for later speakers bureaus for a drug for 14 US WorldMeds? 15 A. Yes. 16 MS. HIBBERT: Objection to form. 17 THE WITNESS: Oh, sorry. 18 BY MS. DICKINSON: 19 Q. Okay. And what was the drug? 20 MS. HIBBERT: Objection to form. 21 BY THE WITNESS: 22 A. The tradename is L-u-c-e-m-y-r-a. 23 BY MS. DICKINSON: 24 Q. And from your experience with</p>	<p>1 Q. Okay. 2 MS. HIBBERT: Dr. Miller -- 3 THE WITNESS: Sorry. 4 MS. HIBBERT: -- give me a pause, please. 5 THE WITNESS: Sorry. 6 BY MS. DICKINSON: 7 Q. Which pharmaceutical companies have you 8 served on the speakers bureau for, could you give me a 9 list of those? 10 A. BDSI and US WorldMeds. 11 Q. You mentioned Ammon Labs. 12 Did you serve on the speakers bureau for 13 Ammon Labs? 14 A. That's a different deal, but, in fact, 15 yes. They -- they don't really have it well formed, 16 but I've given talks on their behalf and been 17 compensated for them. 18 Q. Okay. You mentioned an additional company 19 that makes Vivitrol, I believe. 20 What is the name of that company? 21 A. A-l-k-e-r-m-e-s. 22 Q. Have you ever served on the speakers 23 bureau for Alkermes? 24 A. No.</p>
<p style="text-align: center;">Page 187</p> <p>1 pharmaceutical company speakers bureaus, I think you 2 testified, but I just want to make sure, that the way 3 that the speakers bureau systems works is that 4 speakers are handed a slide deck drafted by the 5 pharmaceutical company, is that true? 6 A. That's the way I understand it to be. 7 Q. In your experience, are speakers that are 8 paid speakers in a speakers bureau for pharmaceutical 9 companies allowed to make revisions to that slide 10 deck? 11 MS. HIBBERT: Objection to form, calls for 12 speculation. 13 BY THE WITNESS: 14 A. Speakers are instructed that they should 15 not go off script, but if they want to put in their 16 own slides, they have to identify them as their own 17 slides and not the company's slides. 18 BY MS. DICKINSON: 19 Q. And the script, the original script comes 20 from whichever pharmaceutical company is sponsoring 21 the speakers, correct? 22 A. Yes. 23 MS. HIBBERT: Objection to form. 24 BY MS. DICKINSON:</p>	<p style="text-align: center;">Page 189</p> <p>1 Q. Have you ever done any work for Alkermes? 2 A. Yes. 3 Q. What kind? 4 A. I have been trained to be on the speakers 5 bureau twice. Once I was compensated for that time 6 spent in training, then years later they revised the 7 deck and you have to do updates, and I did not get 8 compensated that time, but never did it get to the 9 point that I got an appointment date to go give a 10 talk. 11 Q. Okay. If I go through the list, BDSI, 12 US WorldMeds, and Ammon Labs, you have been 13 compensated as a paid speaker for those three 14 companies, is that correct? 15 MS. HIBBERT: Objection to form. 16 BY THE WITNESS: 17 A. That's not correct because I'm on the 18 speakers bureau for US WorldMeds but haven't taken any 19 engagements because I now work for an academic medical 20 center employer that does not allow such 21 relationships. 22 BY MS. DICKINSON: 23 Q. Okay. Fair. 24 I think my original question had been what</p>

Page 190	Page 192
1 companies have you been on the speakers bureau for, 2 and you listed BDSI and US WorldMeds, is that correct? 3 A. And, again, to clarify my answers, I'm on 4 the list but haven't actualized it. 5 Q. That was going to be my next question. 6 Did you ever give paid speeches for either 7 BDSI or US WorldMeds? 8 A. Only BDSI. 9 Q. Okay. How many did you give for BDSI? 10 A. I believe just one. 11 Q. And do you know what you were compensated 12 for that?  15 Q. Okay. And then you mentioned you were 16 compensated for speeches from Am -- Ammon Labs, is 17 that correct? 18 A. Correct. 19 Q. How many speeches? 20 A. I have given one. 21 Q. Okay. About what product? 22 A. About their drug testing services. 23 Q. Okay. And then you testified that you had 24 been trained twice for another pharmaceutical company,	1 Q. Okay. And you mentioned that in 2 October you went back to your employment with the 3 University of Wisconsin, is that correct? 4 A. Yes, ma'am. 5 Q. And you testified that University of 6 Wisconsin had a prohibition on taking money from 7 pharmaceutical companies, is that correct? 8 MS. HIBBERT: Objection to form. 9 BY THE WITNESS: 10 A. Some would characterize it as that. 11 It's -- it's a -- it would have to be much more 12 specifically stated, but physicians cannot be on 13 speakers bureaus, I can tell you that as a very 14 specific. 15 BY MS. DICKINSON: 16 Q. Okay. What is the rule at University of 17 Wisconsin about taking any sort of compensation from 18 pharmaceutical companies? 19 MS. HIBBERT: Objection to form. 20 BY THE WITNESS: 21 A. I can only speak to it in general. 22 BY MS. DICKINSON: 23 Q. Okay. What is the general rule? 24 A. If you are getting any money to support
Page 191	Page 193
1 Alkermes, but that you haven't yet given a paid speech 2 for Alkermes, is that correct? 3 A. Yes. And to -- I need to retract -- 4 revise my answer to the previous question. 5 I have not given any sort of promotional 6 speeches for Ammon about their drug testing services 7 per se. I have given goodwill presentations at their 8 request to audiences they have selected about 9 addiction and using medications to treat addiction. 10 There could be a few slides in there about the fact 11 that you should be doing drug testing when you are 12 treating patients, but it really was general education 13 about addiction treatment to clinical audiences who 14 might potentially become customers of Ammon. They 15 were not -- they were very, very indirectly 16 promotional for Ammon, for Ammon's drug testing 17 services which is what their business line is. 18 Q. Have we talked about all of the 19 pharmaceutical companies for which you've given paid 20 speeches in the last few minutes? 21 MS. HIBBERT: Objection to form. 22 BY THE WITNESS: 23 A. I believe we have. 24 BY MS. DICKINSON:	1 your research, you have to disclose that big time. So 2 that would be considered industry-supported research. 3 You cannot be on ad boards for pharmaceuticals and you 4 cannot be on speakers bureaus for pharmaceuticals. 5 Q. Why is -- why is it that you cannot be on 6 ad boards or speakers bureaus while you are working at 7 the University of Wisconsin? 8 MS. HIBBERT: Objection to form. 9 BY THE WITNESS: 10 A. I think you should ask them. 11 BY MS. DICKINSON: 12 Q. Do you know? 13 MS. HIBBERT: Objection to form. 14 BY THE WITNESS: 15 A. I don't know. No, I don't know. I -- 16 I -- I -- I have -- I -- that's -- that's their deal. 17 BY MS. DICKINSON: 18 Q. What is your understanding of why you 19 can't be on speakers boards or ad boards while you are 20 working for the University of Wisconsin? 21 MS. HIBBERT: Objection to form. 22 BY THE WITNESS: 23 A. The general sense is that physicians' 24 prescribing habits are influenced by corporate

<p style="text-align: right;">Page 194</p> <p>1 relationships.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Okay. You mention on Page 3 of your report that -- and when I'm talking about your report, I'm talking about the report in Exhibit 2, if you want to turn there you certainly can. I'm just going to ask you a question about Paragraph 7 of your report.</p> <p>8 Paragraph 7, I'm going to read just the second sentence of the Paragraph 7.</p> <p>10 "I was the first" --</p> <p>11 A. Just one second. Can I put this away?</p> <p>12 Q. Oh, I'm sorry.</p> <p>13 A. Can I put this away?</p> <p>14 Q. Of course you -- I wouldn't put it away, to be honest.</p> <p>16 A. Well --</p> <p>17 Q. We are not quite done. But -- but, yes, you can pick up Exhibit 2.</p> <p>19 A. Yes, No. 7, yes, ma'am.</p> <p>20 Q. Okay. Paragraph 7 in the sent -- the last sentence states:</p> <p>22 "I was the first physician in Madison, Wisconsin to prescribe this medication and I am considered a key opinion leader in medication-assisted</p>	<p style="text-align: right;">Page 196</p> <p>1 opinion leader for the man -- for the manufacturers of</p> <p>2 Buprenorphine.</p> <p>3 Which manufacturers of Buprenorphine do</p> <p>4 you serve as a key opinion leader for?</p> <p>5 MS. HIBBERT: Objection to form,</p> <p>6 mischaracterizes the statement made in this report and</p> <p>7 his deposition testimony.</p> <p>8 BY MS. DICKINSON:</p> <p>9 Q. Doctor, let's just go back, if we have to, to Paragraph 7. It just says:</p> <p>11 "I am considered a key opinion leader in</p> <p>12 medication-assisted treatment of addiction by all</p> <p>13 leading manufacturers of FDA-approved medications to</p> <p>14 treat addiction involving opioid use."</p> <p>15 Have I read that correctly?</p> <p>16 A. Yes, ma'am.</p> <p>17 Q. Okay. What manufacturers of FDA-approved</p> <p>18 medications to treat addiction involving opioid use</p> <p>19 are you referring to there?</p> <p>20 A. Again, I -- I completely agree with the</p> <p>21 objection by counsel. That statement says my</p> <p>22 understanding is that they have a consideration of me,</p> <p>23 an opinion of me, but I don't have a relationship with</p> <p>24 those companies and I'm not compensated to offer key</p>
<p style="text-align: right;">Page 195</p> <p>1 treatment, MAT, of addiction by all leading</p> <p>2 manufacturers of FDA-approved medications to treat</p> <p>3 addiction involving opioid use."</p> <p>4 Did I read that correctly?</p> <p>5 A. Yes, ma'am.</p> <p>6 Q. When -- when it was referring to this</p> <p>7 medication, is that Buprenorphine?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. Okay. So you can put the report aside.</p> <p>10 When you were referring to working as a</p> <p>11 key opinion leader for all of the major manufacturers</p> <p>12 of Buprenorphine, what is a key opinion leader?</p> <p>13 MS. HIBBERT: Objection to form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. In my life I have read a definition,</p> <p>16 because I think it exists. My understanding of the</p> <p>17 concept is that it is an experienced physician whose</p> <p>18 opinions are valued by their colleagues.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. Okay. Have you ever served as a paid key</p> <p>21 opinion leader for any pharmaceutical company?</p> <p>22 A. Absolutely nothing beyond what we have</p> <p>23 already discussed.</p> <p>24 Q. Okay. You stated that you serve as a key</p>	<p style="text-align: right;">Page 197</p> <p>1 opinions. I'm considered to have an opinion that</p> <p>2 carries weights with my colleagues because of my</p> <p>3 experience and my leadership role in addiction</p> <p>4 professional organizations. But when I -- when I say</p> <p>5 all the manufacturers of addiction -- FDA-approved</p> <p>6 medications, I'll have to give you the list of the</p> <p>7 medications and I'll do that. And it's a -- it's a</p> <p>8 shortlist.</p> <p>9 Q. Okay.</p> <p>10 A. Okay.</p> <p>11 Injectable naltrexone. The product is</p> <p>12 Vivitrol and the manufacturer is Alkermes and we have</p> <p>13 the spellings of that already.</p> <p>14 Buprenorphine, the first medication was</p> <p>15 trade named Suboxone. It is no longer made. The</p> <p>16 original company was called Reckitt Benkiser,</p> <p>17 R-e-c-k-i-t-t, second word B-e-n-k-i-s-e-r, a German</p> <p>18 manufacturer. Reckitt has got two T's, I think. They</p> <p>19 changed their name to Indivior, I-n-d-i-v-i-o-r.</p> <p>20 The second product to market was Zubsolv,</p> <p>21 it is capital S -- capital Z-u-b, capital S-o-l-v.</p> <p>22 I'm not sure if they've kept the S capital since. The</p> <p>23 corporation is called Orexo, O-r-e-x-o.</p> <p>24 The next product was the Bunavail product</p>

Page 198	Page 200
<p>1 made by BDSI which we've talked about.</p> <p>2 The next product was the Probuphine</p> <p>3 injection made by Braeburn.</p> <p>4 The next product is Sublocade,</p> <p>5 S-u-b-l-o-c-a-d-e, made by Indivior.</p> <p>6 There was a branded product called Revia,</p> <p>7 R-e-v-i-a, that was oral naltrexone that's been off</p> <p>8 patent for years. I don't remember who the</p> <p>9 manufacturer was.</p> <p>10 Now oral naltrexone is only by a number of</p> <p>11 generic houses. So when I made my comment about being</p> <p>12 considered a key opinion leader, because I was the</p> <p>13 founding president of this state's chapter of ASAM and</p> <p>14 had been on the board of directors of the Wisconsin</p> <p>15 Society of Addiction Medicine since its founding over</p> <p>16 25 years ago, and because I've been President of the</p> <p>17 American Society of Addictive Medicine, people</p> <p>18 consider that my opinion carries weight. And so the</p> <p>19 manufacturers know who the leaders of the professional</p> <p>20 societies are and I meant nothing beyond that and I</p> <p>21 definitely meant nothing fiduciary other than things</p> <p>22 I've testified to otherwise.</p> <p>23 Q. Okay. Are you aware that the</p> <p>24 pharmaceutical company Actavis makes a Buprenorphine</p>	<p>1 A. I am not so aware. I'm -- I'm aware that</p> <p>2 companies make Buprenorphine for pain and some of</p> <p>3 those companies that you listed make pain meds and</p> <p>4 they may even be companies that are defendants in this</p> <p>5 case, but pain is not my specialty, so I don't keep</p> <p>6 track of the products.</p> <p>7 Q. Okay.</p> <p>8 A. I don't remember who makes Bu -- Butrans</p> <p>9 even. That's the best known. I don't know who makes</p> <p>10 it.</p> <p>11 Q. Okay. If you would turn to Exhibit, let's</p> <p>12 go to 3, your CV, if you would again.</p> <p>13 A. I'm ready.</p> <p>14 Q. Okay. I'm going to try to go through some</p> <p>15 of this in the quickest way possible. I will promise</p> <p>16 you I will not go through every entry. I'm going to</p> <p>17 try to just ask you some general questions about</p> <p>18 groupings on your CV and maybe it can go a little</p> <p>19 faster, I hope.</p> <p>20 So at the very top of Page 1 of Exhibit 3,</p> <p>21 you have a -- a grouping of entries that starts with</p> <p>22 "Clinical Instructor at University of Wisconsin."</p> <p>23 Do you see that? It's probably the second</p> <p>24 full paragraph.</p>
Page 199	Page 201
<p>1 product?</p> <p>2 A. I am not aware of that and I also don't</p> <p>3 know if that indication is for addiction or for pain.</p> <p>4 Q. I'm just asking if you are aware.</p> <p>5 A. Yeah.</p> <p>6 Q. Are you aware that the company Mylan makes</p> <p>7 a Buprenorphine product?</p> <p>8 A. I'm not aware.</p> <p>9 Q. Are you aware that the company Rhodes</p> <p>10 makes a Buprenorphine product?</p> <p>11 A. It sounds like generic houses. I have --</p> <p>12 I have -- I have never heard the name Rhodes.</p> <p>13 Q. Okay. Are you a -- you are not aware that</p> <p>14 Rhodes is connected to Purdue Pharma in any way?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I'm definitely not aware.</p> <p>18 MS. HADAGHIAN: Purdue joins.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. Okay. Are you aware of -- that the</p> <p>21 company Mallinckrodt sells a Buprenorphine product?</p> <p>22 A. I am not so aware.</p> <p>23 Q. Are you aware that the company Teva sells</p> <p>24 a Buprenorphine product?</p>	<p>1 MS. HIBBERT: He is looking at Page 1 of your --</p> <p>2 MS. DICKINSON: Page 1.</p> <p>3 BY THE WITNESS:</p> <p>4 A. I'm going to say something which will</p> <p>5 disappoint my counsel.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Okay.</p> <p>8 A. On Page -- on Page 8 at the top of</p> <p>9 Hospital Affiliations --</p> <p>10 Q. Okay.</p> <p>11 A. -- I've testified to this whole story</p> <p>12 about honorary medical staff.</p> <p>13 Q. Yes.</p> <p>14 A. Of Meriter.</p> <p>15 Q. Yes.</p> <p>16 A. This does not reflect that. There is a --</p> <p>17 Q. Understood.</p> <p>18 A. There is a newer addition of that page.</p> <p>19 Q. Okay.</p> <p>20 A. Somewhere that somebody is going to want</p> <p>21 to make an exhibit in this litigation.</p> <p>22 Q. Okay.</p> <p>23 A. I'll have to generate that for everybody</p> <p>24 and get that to you.</p>

Page 202	Page 204
1 And so the most current version of my CV 2 is a version that -- that lists that change as of 3 June 1st which was three days ago. 4 Q. Okay. 5 A. So I just want -- I -- I just noticed that 6 and I wanted to be honest with you about that. 7 Q. I appreciate it. And if at any time when 8 we are going through your CV, it's -- it's not a 9 perfection test. If you notice another time and there 10 is just an inaccuracy, just let me know. Okay? 11 A. Thank you, ma'am. What page are you on, 12 please? 13 Q. Page 1. 14 A. Yes. 15 Q. Right at the top, the first -- the 16 grouping of entries -- 17 A. Yes. 18 Q. -- that starts with "Clinical Instructor"? 19 A. Yes, ma'am. 20 Q. Does that grouping of entries summarize 21 your current employment? 22 A. Those four lines do, yes, ma'am. 23 Q. Okay. Can you tell me, please, can you -- 24 actually, can you give me a breakdown if -- if	1 Q. Of your -- when you say your "consultation 2 activities," is that your litigation consulting? 3 A. All. 4 Q. Okay. And what percentage of your work 5 time does your consultation activities take up? 6 A. On my daily schedule it would be 7 12 percent max, but lately I've been working overtime. 8 Q. In the last year, if by my math you were 9 up to about 60 percent of your work time, has 10 40 percent been spent on consulting activities? 11 MS. HIBBERT: I'll object to your math. 12 BY MS. DICKINSON: 13 Q. Okay. Go ahead and answer. 14 A. I will too. 15 Q. All right. So -- so what is the math, how 16 much of the last year have your activities been spent 17 on consulting? 18 A. I would say in the whole year, and, again, 19 going over 40 hours a week, I would say that we are 20 20 percent consulting. 21 Q. How -- how much money have you been paid 22 to date in this case? 23 A. In this case? 24 Q. Um-hum.
Page 203	Page 205
1 100 percent of your time is spent between these four 2 what percent is spent on which employment? 3 A. I'm happy to. 4 Line 1 -- 5 MS. HIBBERT: Objection to form. 6 BY THE WITNESS: 7 A. Oh, I'm sorry. Oh, my goodness. 8 Q. You are good. Go ahead. 9 A. Not being a lawyer, I don't know what's 10 objectionable. 11 Q. No, you're all right. 12 MS. HIBBERT: You are not required to, 13 Dr. Miller. You are required to give me a -- a beat 14 to put the objection on the record. 15 THE WITNESS: I am and I apologize. 16 BY THE WITNESS: 17 A. Line 1, 50 percent. 18 BY MS. DICKINSON: 19 Q. Okay. 20 A. Line 2, 1 percent. Line 3, 30 percent. 21 Line 4, 6 percent. And the remaining percentage is my 22 consultation business which is not really employment. 23 It is just what I do. All of my consultation 24 activities would be beyond those hours.	1 A. I think I've received about \$22,000. 2 Q. Do you have any outstanding invoices that 3 are not included in that \$22,000? 4 A. Yes. 5 Q. Do you know how much are in those 6 outstanding invoices? 7 A. I would say about 21. 8 Q. So the rough total of services built -- 9 billed to date in this case is roughly \$43,000? 10 A. Yes, ma'am. 11 Q. What was your annual income in 2018? 12 MS. HIBBERT: Objection to form. 13 BY THE WITNESS: 14 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Page 206

[REDACTED]

Page 208

[REDACTED]

Page 207

[REDACTED]

Page 209

[REDACTED]
6 MS. HIBBERT: Objection to form.
7 THE WITNESS: Sorry.
8 BY MS. DICKINSON:
9 Q. Correct?
10 A. Yes, ma'am.
11 Q. Okay. When did you stop working for
12 Rogers?
13 A. June.
14 Q. I'm sorry. June of 2018?
15 A. Yes, ma'am.
16 Q. And did you resign or were you terminated?
17 A. I resigned.
18 Q. Why did you resign in June of 2018 from
19 Rogers?
20 A. Multiple factors, but one of them is what
21 we talked about many hours ago, the path toward
22 retirement. And, quite honestly, leaving what I've
23 referred to as a job for life at Meriter through 2010,
24 leaving there to go to Rogers was part of the idea of

<p style="text-align: right;">Page 210</p> <p>1 disengagement from something that I was intensely 2 workaholicly engaged in. And so I've been disengaging 3 from professional role gradually since 2010. And part 4 of leaving full-time employment to do part-time things 5 and build the consulting practice for the retirement 6 years was getting out of those obligations. And so I 7 left.</p> <p>8 Q. Has it been hard to disengage? It sounds 9 like it.</p> <p>10 MS. HIBBERT: Objection to form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. It -- it's been okay.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Okay. Fair.</p> <p>15 Let's look at the same page, Page 1. You 16 have a section called "National Activities."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Can you briefly tell me what you were 20 doing in the first one of those listed activities on 21 the Council on Science and Public Health, American 22 Medical Association?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. What, briefly, were you doing or</p>	<p style="text-align: right;">Page 212</p> <p>1 Medicine (ASAM). So of the 40-something seats on the 2 Hospital Accreditation Program Advisory Committee, one 3 seat was jointly held by these three organizations. 4 And the other organizations would generally turn to 5 the physician organization, ASAM, and say, give us a 6 nominee.</p> <p>7 I was asked by the leadership of ASAM to 8 serve on the Professional Technical Advisory 9 Committee, which I did from '94 to '98. And the 10 members of that advisory committee, all volunteers, 11 selected a chair to preside over the meetings. And so 12 my peers there picked me to be the chair.</p> <p>13 Q. Okay. When you served on that technical 14 advisory committee, who else was serving on that 15 committee?</p> <p>16 A. Representatives from professional 17 societies, from hospitals. So it was physicians, 18 nurses, psychologists, hospital administrators, people 19 who were stakeholders in the process of accrediting 20 hospitals.</p> <p>21 Q. And what did the committee do?</p> <p>22 A. We provided professional technical advice.</p> <p>23 Q. What does that mean?</p> <p>24 A. Well, that means the accreditation</p>
<p style="text-align: right;">Page 211</p> <p>1 are you doing there?</p> <p>2 A. Still doing it.</p> <p>3 Q. Good.</p> <p>4 A. I become chair of the council in a week.</p> <p>5 Q. What are -- what generally are your duties 6 as chair of the council?</p> <p>7 A. The council assists the AMA house of 8 delegates in developing the official policies of the 9 AMA, specifically those policies related to science 10 and public health.</p> <p>11 Q. Okay. I'm sorry.</p> <p>12 You also list below it a: "Chair 13 Professional Technical Advisory Committee Hospital 14 Accreditation Program, the Joint Commission, formerly 15 JACO, in 1998."</p> <p>16 Do you see that?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. What was that position?</p> <p>19 A. That was a position where I was appointed 20 to the PTAC to a seat that was jointly held or granted 21 to three organizations: The National Association of 22 Addiction Treatment Providers (NAATP), the National 23 Association of Alcohol and Drug Abuse Counselors 24 (NAADAC), and the American Society of Addiction</p>	<p style="text-align: right;">Page 213</p> <p>1 programs, and at that time I think the Joint 2 Commission had five or six, one for nursing homes, one 3 for hospitals, one for outpatient clinics, one for 4 health plans, for instance.</p> <p>5 So these accreditation programs go to 6 organizations and survey them to determine if they 7 meet quality standards. So the Joint Commission is 8 the best known entity to conduct surveys of hospitals 9 to determine that they are providing quality care 10 according to a million little dimensions that are 11 codified in the standards manual. So the Joint 12 Commission develops standards and then it develops 13 survey procedures, then it executes surveys, and then 14 it reports results.</p> <p>15 Our committee was to provide advice to the 16 Joint Commission on its standards primarily, its 17 survey procedures to some extent, its reporting 18 mechanisms. I think back around that era, public 19 reporting of outcomes was just coming into the fore, 20 and so being stakeholders, again, hospital 21 administrators, members of hospital medical staffs, 22 nurses, pharmacists, professional societies, it is a 23 very diverse, very nice, very esteemed group, very 24 exciting, we would get together and we would be</p>

<p style="text-align: right;">Page 214</p> <p>1 presented an agenda to react to, and back then the 2 PTACs met either four to six times a year. I think 3 they met less and less during the time and they've 4 become less and less influential since 1998, but the 5 PTACs were a big deal back in the '90s.</p> <p>6 Q. Your experience as the chair of the -- can 7 we call it the PTAC committee, is that fair?</p> <p>8 A. The PTAC, yes.</p> <p>9 Q. Okay. Was Joint Commission hospital 10 accreditation important to the hospitals?</p> <p>11 A. Oh, yes.</p> <p>12 Q. Why?</p> <p>13 A. It has to do with stature and prestige. 14 You don't want to be unaccredited. So it's like a 15 Good Housekeeping seal or a Consumer Reports seal. 16 That's extremely important. But there was a bottom 17 line consideration as well, and that is something that 18 I will call "deemed status." And this was set up by 19 the Federal Government.</p> <p>20 The Centers for Medicare and Medicaid 21 Services are the branch of the Federal Department of 22 Health & Human Services that oversees the Medicare and 23 Medicaid program and how they pay inpatient, 24 outpatient, nursing home, healthcare providers for</p>	<p style="text-align: right;">Page 216</p> <p>1 So, what relationship did this Joint 2 Commission standards have to Joint Commission 3 accreditation?</p> <p>4 MS. HIBBERT: Objection to the previous colloquy 5 before the question.</p> <p>6 Go ahead.</p> <p>7 BY THE WITNESS:</p> <p>8 A. The -- the surveyors go into facilities 9 and survey regarding to what extent on probably a 10 five-point grade, one, two, three, four, five, to what 11 extent are the structures and processes of the 12 provider organization adhering to the standards. So 13 that's the -- that's the checklist they use is the 14 standards manual. So what's in the manual matters.</p> <p>15 BY MS. DICKINSON:</p> <p>16 Q. So essentially what's in the manual also 17 matters to the hospital's bottom line, is that fair?</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. There is a circuitous dotted line, but, 21 yes, Point A does go to Point Z at some point.</p> <p>22 BY MS. DICKINSON:</p> <p>23 Q. The survey that you talked about that does 24 matter to the bottom line is based essentially on a</p>
<p style="text-align: right;">Page 215</p> <p>1 healthcare services, okay.</p> <p>2 To be a hospital that receives Medicare 3 payments, you have to be surveyed by CMS. The CMS 4 gave deemed status to the Joint Commission years ago, 5 and by that they mean if you have been surveyed by the 6 Joint Commission, you are deemed to be surveyed by 7 CMS. And so the Joint Commission surveys serve in 8 lieu of a government survey to determine if you are 9 eligible to receive Medicare services. Therefore, if 10 you lose Joint Commission accreditation, you lose your 11 ability to get paid by Medicare and Medicaid. You 12 might imagine the impact that would have on a 13 hospital.</p> <p>14 Q. It's a huge financial impact, correct?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. Exactly, that's the point I was trying to 18 make.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. You made -- you actually made it very 21 clear, in an area that is really complicated. I 22 appreciate it. I used to defend hospitals years ago 23 and I'm not sure I ever heard someone put it that 24 succinctly.</p>	<p style="text-align: right;">Page 217</p> <p>1 checklist of are they meeting the standards, is that 2 fair?</p> <p>3 MS. HIBBERT: Objection to form. Also object to 4 this line of questioning, getting pretty far afield 5 from the scope of the opinions that Dr. Miller has 6 offered in this case and supposedly the purpose of 7 this deposition.</p> <p>8 You can answer, Dr. Miller, if you can.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. You can answer. Go ahead.</p> <p>11 A. Your general characterization is accurate.</p> <p>12 Q. Okay.</p> <p>13 Can we refer to the JACO standards manual 14 as the JACO standards? Do you understand what I'm 15 talking about when I say that?</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I can give you a technical term.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. Okay. That would be great.</p> <p>21 A. The CAMH.</p> <p>22 Q. What does CAMH stand for?</p> <p>23 A. The Comprehensive Accreditation Manual for 24 Hospitals. Again, each of the Joint Commission</p>

Page 218	Page 220
<p>1 accreditation programs has its own manual. There is a 2 Comprehensive Accreditation Manual for Behavioral 3 Healthcare, the CAMH is the Comprehensive 4 Accreditation Manual for Hospitals.</p> <p>5 Q. Okay. Are you familiar with the 6 University of Wisconsin Pain and Policy Study Group?</p> <p>7 A. I am.</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay.</p> <p>11 THE WITNESS: Sorry.</p> <p>12 MS. HIBBERT: If you give me a pause, please, 13 Dr. Miller.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. Who is that group?</p> <p>16 A. I don't --</p> <p>17 MS. HIBBERT: Objection to form.</p> <p>18 Also, again, Dr. Miller is not being 19 offered as a fact witness in this case. He has not 20 been noticed as a fact witness. This is supposed to 21 be an expert deposition pertaining to the opinions 22 that Dr. Miller has offered in this case and outlined 23 in his report marked as Exhibit No. 2. I'll allow 24 this line to continue for a little bit longer, but,</p>	<p>1 Q. How long have you been familiar with that 2 group?</p> <p>3 MS. HIBBERT: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. I believe the early '90s.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Okay. Generally were -- did that group 8 have a previous name? I think I read somewhere it was 9 the Comprehensive Cancer Center or something like 10 that?</p> <p>11 MS. HIBBERT: Objection to form.</p> <p>12 BY THE WITNESS:</p> <p>13 A. Again, this is all sorts of facts that I'm 14 trying to help you with with your questions, but the 15 Carbone Comprehensive Cancer Center is largely a 16 clinical and research entity. It is not a policy 17 entity.</p> <p>18 BY MS. DICKINSON:</p> <p>19 Q. And who -- are you familiar with the 20 Carbone Cancer Center -- Comprehensive Cancer Center?</p> <p>21 A. I am.</p> <p>22 Q. Okay. And what is that?</p> <p>23 A. It's the division of university hospital 24 and the medical school that houses clinical and</p>
<p style="text-align: center;">Page 219</p> <p>1 again, I caution I think we are getting a little far 2 afield from the expert deposition that's supposed to 3 be taking place today.</p> <p>4 MS. DICKINSON: Counsel, this is absolutely in 5 the scope of questions that can be asked about his 6 background, his experience in the field, and -- and 7 you can instruct him not to answer if you want to, but 8 we are going to call Special Master Cohen if you do 9 because that's just a completely inappropriate 10 objection.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. So, Doctor, I'll just start again.</p> <p>13 What -- what is the UW Pain and Policy 14 Group?</p> <p>15 MS. HIBBERT: Objection to form, lack of 16 foundation.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I don't know that it exists today.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. Okay. What was it?</p> <p>21 A. When I was aware of it, it was a group 22 that tried to advise various entities or stakeholders 23 on what policies they should have about the use of 24 opioids in the management of pain.</p>	<p style="text-align: center;">Page 221</p> <p>1 research oncologists and medical scientists that do 2 cancer research.</p> <p>3 Q. Do you know if the Carbone Comprehensive 4 Cantor -- Cancer Center physicians had a role in 5 advocating for the use of opioids?</p> <p>6 MS. HIBBERT: Objection to form, calls for 7 speculation.</p> <p>8 BY THE WITNESS:</p> <p>9 A. Yeah, this is way outside of -- I did not 10 form an opinion about that. I don't have anything 11 formal to say about that. My -- my -- my --</p> <p>12 BY MS. DICKINSON:</p> <p>13 Q. Do you know is what I'm asking?</p> <p>14 MS. HIBBERT: Objection to form.</p> <p>15 BY THE WITNESS:</p> <p>16 A. Can -- let me reread the question here.</p> <p>17 "Do you know if Carbone Comprehensive 18 Cancer Center physicians had a role in advocating for 19 the use of opioids?"</p> <p>20 Interesting question. I don't know if 21 they did.</p> <p>22 BY MS. DICKINSON:</p> <p>23 Q. Okay. Do you know any of the doctors 24 in -- that were a part of the UW Pain and Policy</p>

Page 222	Page 224
<p>1 Group?</p> <p>2 MS. HIBBERT: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. Yes.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. Okay. Which doctors?</p> <p>7 A. I don't know of any physicians, but you</p> <p>8 said doctors.</p> <p>9 Q. Right, Ph.D.s would be included in my</p> <p>10 question.</p> <p>11 A. Exactly.</p> <p>12 And David Joranson was a principal,</p> <p>13 J-o-r-a-n-s-o-n, Ph.D., and either a part of or a</p> <p>14 regular consultant to the WPP -- what are they called,</p> <p>15 Wisconsin Pain & Policy Project, is that what they're</p> <p>16 called, WPPP?</p> <p>17 Q. Typically it's referred to as the UW PPSG,</p> <p>18 I think.</p> <p>19 Does that sound right?</p> <p>20 A. Whatever.</p> <p>21 Q. Okay. We know what we are talking about,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 MS. HIBBERT: Objection.</p>	<p>1 Dr. Joranson on professional projects, is that fair?</p> <p>2 A. I'm having a hard time answering your</p> <p>3 question, ma'am, because it was so many years ago and</p> <p>4 would one characterize it as collaboration to be</p> <p>5 working as an addiction medicine physician with a</p> <p>6 professional society on a topic that they were also</p> <p>7 working with. So I didn't work with him, but did we</p> <p>8 ever work in parallel and, you know, on -- on the same</p> <p>9 general theme. Well, certainly I've -- I've already</p> <p>10 implied that we have sat on panels together where a</p> <p>11 topic was discussed and the topic would be the use of</p> <p>12 pain meds.</p> <p>13 Q. And when you say the use of pain meds, do</p> <p>14 you mean the opioid pain meds?</p> <p>15 A. Yes, ma'am.</p> <p>16 Q. Okay. How many times do you think you</p> <p>17 interacted with Dr. Joranson on panels and those types</p> <p>18 of things with respect to opioids over the 25 years?</p> <p>19 MS. HIBBERT: Object to form.</p> <p>20 BY THE WITNESS:</p> <p>21 A. My best guess would be three to six.</p> <p>22 BY MS. DICKINSON:</p> <p>23 Q. And when you say three to six, three to</p> <p>24 six times?</p>
<p>1 BY MS. DICKINSON:</p> <p>2 Q. Okay.</p> <p>3 A. But June Dahl.</p> <p>4 Q. Okay.</p> <p>5 A. D-a-h-l, Ph.D.</p> <p>6 Q. How long have you known Dr. Joranson?</p> <p>7 MS. HIBBERT: Objection to form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. Over 25 years.</p> <p>10 BY MS. DICKINSON:</p> <p>11 Q. How did you first know Dr. Joranson?</p> <p>12 A. I either attended a presentation he gave</p> <p>13 or we were on a panel together presenting together to</p> <p>14 some sort of conference.</p> <p>15 Q. Have you worked on -- have you worked with</p> <p>16 Dr. Joranson over the years?</p> <p>17 MS. HIBBERT: Objection to form.</p> <p>18 BY THE WITNESS:</p> <p>19 A. Again, listening to your question, I would</p> <p>20 not say I have worked with him which implies</p> <p>21 collaboration. I have not.</p> <p>22 BY MS. DICKINSON:</p> <p>23 Q. Okay. That's a fair distinction.</p> <p>24 You have not collaborated with</p>	<p>1 A. Three to six times --</p> <p>2 Q. Okay.</p> <p>3 A. -- in 25 years, yes, ma'am.</p> <p>4 Q. Okay. How long have you known June Dahl?</p> <p>5 A. Again, about 25 years, maybe a little</p> <p>6 bit -- I -- I knew June before I knew David by a few</p> <p>7 years.</p> <p>8 Q. Okay. And what was June Dahl's specialty?</p> <p>9 MS. HIBBERT: Objection to form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. I should know the answer. I'm pretty</p> <p>12 certain she is a pharmacologist and not a pharmacist,</p> <p>13 but she teaches in the school of pharmacy. I don't</p> <p>14 think she is a pharmacist. I think she is a</p> <p>15 pharmacologist.</p> <p>16 BY MS. DICKINSON:</p> <p>17 Q. And teaches in the school of pharmacy you</p> <p>18 meant at UW?</p> <p>19 A. University of Wisconsin, Rennebohm School</p> <p>20 of Pharmacy.</p> <p>21 Q. How did you come to know Dr. Dahl?</p> <p>22 A. Again, she has been faculty, but mostly it</p> <p>23 would be we were on faculty together in a particular</p> <p>24 course. We've taught together a number of times.</p>

Page 226	Page 228
<p>1 Q. Okay. What course have you taught with 2 June Dahl?</p> <p>3 A. Well, most recently the board review 4 course for pain medicine sponsored by UW, and that's 5 in my CV. I did it four or five years in a row.</p> <p>6 Q. Okay. Have you taught other courses with 7 June Dahl?</p> <p>8 A. My general recollection is yes. Specifics 9 I don't have. I would certainly think that we invited 10 her to speak at Wisconsin Society of Addiction 11 Medicine educational conferences where I was also on 12 the faculty, but maybe that didn't happen, but I think 13 it did.</p> <p>14 Q. Okay. On the courses that you taught with 15 June Dahl at UW, was there a syllabus?</p> <p>16 A. Yes.</p> <p>17 Q. Do you still have copies of those written 18 syllabus?</p> <p>19 A. I actually have thumb drives with three 20 different years' worth of syllabi.</p> <p>21 Q. And which years do you think you have?</p> <p>22 A. '18, '17 and '16 of this century.</p> <p>23 Q. Prior to these last five years where you 24 taught the course with June Dahl at UW, did you teach</p>	<p>1 Q. Okay. And when you say "the manual," we 2 are talking about this CAMH?</p> <p>3 A. CAMH, yes, ma'am.</p> <p>4 Q. Okay. And was -- that presentation was 5 made by Dr. Dahl and Dr. Joranson?</p> <p>6 MS. HIBBERT: Object to form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. No.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay. I'm sorry. Who made that 11 presentation?</p> <p>12 A. Dr. Joran- -- Dr. Dahl and another person 13 whose name I don't recall.</p> <p>14 Q. Was that other person someone at the UW 15 pain and policy group?</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. To the best of my recollection, it was 19 not.</p> <p>20 BY MS. DICKINSON:</p> <p>21 Q. Okay. Was that other person someone from 22 the University of Wisconsin?</p> <p>23 A. To the best of my knowledge, it was not.</p> <p>24 Q. Okay. Do you know what entity that other</p>
Page 227	Page 229
<p>1 other courses with her ever at UW?</p> <p>2 A. You know, I don't even know if it's in my 3 CV, but it might be. Over the years I have been asked 4 to present to classes in the law school, in the social 5 works school, in the pharmacy school, maybe even the 6 physical therapy school, maybe even the vet school, 7 I -- you know, but people just call up and say, We've 8 heard you are a good speaker or we need an expert. 9 And so I've probably taught in one of June's courses 10 where I'd come in for one session and teach a session.</p> <p>11 Q. Okay. We talked about your work on the 12 PTAC for the Joint Commission back in 1998.</p> <p>13 Did you ever come into contact with either 14 Dr. Dahl or Dr. Joranson during your time working on 15 that committee?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. When?</p> <p>18 A. My last year.</p> <p>19 Q. Okay. And then is -- was that 1998?</p> <p>20 A. I believe so.</p> <p>21 Q. Okay. What was the substance of that 22 contact?</p> <p>23 A. A presentation was made to the PTAC about 24 the idea of a new standard to put in -- in the manual.</p>	<p>1 person was affiliated with?</p> <p>2 MS. HIBBERT: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. No.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. Were there more than just Dr. Dahl and 7 this other person that you don't recall making that 8 presentation to the PTAC regarding the CM -- CAMH 9 standards?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Who else was making the 12 presentation?</p> <p>13 A. The Joint Commission staff.</p> <p>14 Q. Okay. Which Joint Commission staff?</p> <p>15 A. I have no idea what their name was. I 16 don't remember if they worked for what was called 17 the -- the SSP, the Standards and Survey Processes 18 committee, which was one level up, if I can digress 19 for a second --</p> <p>20 Q. Yes.</p> <p>21 A. -- the Joint Commission has a Board of 22 Commissioners which is like the board of directors.</p> <p>23 The SSP reports to them and oversees standards and 24 survey procedures across all of the accreditation</p>

Page 230	Page 232
<p>1 programs for the Joint Commission. And then each of 2 the accreditation programs, as I mentioned, ambulatory 3 care, behavioral care, hospitals, long-term care, each 4 of those had a PTAC.</p> <p>5 So the SSP was in between the PTACs and 6 the -- and the Board of Commissioners. So to get a 7 new standard, staff has to conceptualize it, you have 8 to present it to the PTAC and the PTAC has to approve 9 it. It goes to the SSP, this is the way it was then, 10 the SSP has to review it and approve it. If they 11 approve it, it goes to the Board of Commissioners and 12 the Board of Commissioners has to approve it and it 13 gets put in the book. That was the process.</p> <p>14 And I don't remember if it was formally 15 somebody that worked for SSP or of it was just a staff 16 member, pardon the phrase, in the bowels of the Joint 17 Commission, who came, but it was a proposal of a new 18 standard.</p> <p>19 Q. Okay. And what was the content of the 20 proposal of the new standard that Dr. Dahl and the 21 others were --</p> <p>22 MS. HIBBERT: Objection.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. -- presenting on?</p>	<p>1 that an accredited organization will be able to 2 demonstrate to the surveyors that it assesses patients 3 regularly regarding the status of any pain that they 4 may have.</p> <p>5 Q. Did that standard that they were adav -- 6 advocating for require that every patient who came 7 into the hospital be assessed for pain?</p> <p>8 Is that a short way of saying it?</p> <p>9 MS. HIBBERT: Objection to form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. That's fair.</p> <p>12 BY MS. DICKINSON:</p> <p>13 Q. Okay. Is this -- was the standards 14 summarizing what has been often called as the pain is 15 the vi -- fifth vital sign concept?</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. I will answer your question by saying that 19 that is an extraordinarily commonplace and inaccurate 20 conflation of two different concepts.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Okay. I -- I want to stick with what the 23 actual standard they were advocating for was.</p> <p>24 A. That's good.</p>
<p style="text-align: center;">Page 231</p> <p>1 MS. HIBBERT: Sorry. Same objection.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Go ahead.</p> <p>4 A. The proposal was that there be a standard 5 in the manual that would address how the accredited 6 organization addresses pain complaints.</p> <p>7 Q. And what were they proposing the 8 accredited organization would do to address pain 9 complaints?</p> <p>10 MS. HIBBERT: Objection to form.</p> <p>11 BY THE WITNESS:</p> <p>12 A. To shorten our dialogue, they were 13 proposing what became known as the Joint Commission 14 pain standard.</p> <p>15 BY MS. DICKINSON:</p> <p>16 Q. Okay. The Joint Commission pain standard, 17 what was the general substance of the content of that?</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. Again, I don't have any opinions about 21 this. I have facts because I was there at the time.</p> <p>22 BY MS. DICKINSON:</p> <p>23 Q. Okay.</p> <p>24 A. The Joint Commission pain standard says</p>	<p style="text-align: center;">Page 233</p> <p>1 Q. And so the standard, you said, I think, 2 and I just want to be clear, the standard that they -- 3 Dahl and the others were advocating for was that each 4 patient that came into the hospital setting would be 5 assessed for pain.</p> <p>6 Is that accurate?</p> <p>7 A. Yes.</p> <p>8 Q. Okay.</p> <p>9 A. To be -- to be clear, the fifth vital sign 10 language was never used by the Joint at that time.</p> <p>11 Other people at the same time were developing the 12 concept of fifth vital sign. That was not the Joint 13 Commission.</p> <p>14 Q. Okay. Do you know who else was developing 15 that concept, the fifth vital sign?</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 BY THE WITNESS:</p> <p>18 A. It came from some people, some clinicians, 19 some whatevers, some in California, and some in the 20 VA, both -- both California through some bureaucratic 21 arm of the state government and maybe the health 22 department, whatever. Somebody in California adopted 23 that term and some -- and the VA hospital system 24 developed that term, but they were never Joint</p>

Page 234	Page 236
<p>1 Commission terms.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Okay. Is pain a vital sign?</p> <p>4 A. No.</p> <p>5 MS. HIBBERT: Objection to form.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Do you --</p> <p>8 MS. HIBBERT: Please.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. -- the standard that we talked about with respect to Dr. -- that Dr. Dahl was advocating for, okay, so the Joint -- Joint Commission pain standard change that she was advocating for, did you agree with the change that she and others were advocating for?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 Again, this is far afield from the expert opinions that Dr. Miller has offered in this case.</p> <p>18 Are you asking his personal opinion in this question, because he is clearly not offering an expert opinion about anything that you have been asking about pretty much this entire deposition since we haven't talked 22 about his substantive opinions once.</p> <p>23 MS. DICKINSON: I am entitled to ask him about 24 his background. This is his background.</p>	<p>1 MS. HIBBERT: Same objection.</p> <p>2 BY THE WITNESS:</p> <p>3 A. The PTAC advised that the standard not be adopted.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. And did you agree with the PTAC committee that the standard should not be adopted?</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Go ahead.</p> <p>11 A. I did.</p> <p>12 Q. When you were on the PTAC committee, did the standard get adopted?</p> <p>14 A. It did not.</p> <p>15 Q. Okay. Do you know if after you left the committee that standard was adopted?</p> <p>17 A. It was.</p> <p>18 Q. Okay. When?</p> <p>19 A. The following year.</p> <p>20 Q. Do you know if Dr. Dahl had renewed her request to the committee the following year when it was adopted?</p> <p>23 MS. HIBBERT: Objection to form, calls for speculation.</p>
Page 235	Page 237
<p>1 MS. HIBBERT: This is not background.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Doctor, please answer the question.</p> <p>4 MS. HIBBERT: This is a -- this is a opinion about a -- this is a question about an opinion that he has not offered in this case.</p> <p>7 MS. DICKINSON:</p> <p>8 Q. Doctor, please answer the question.</p> <p>9 A. May I?</p> <p>10 Q. Did you agree with the -- with the change in the standard that Dr. Dahl and others were proposing?</p> <p>13 MS. HIBBERT: Objection for the same reasons I just stated.</p> <p>15 BY MS. DICKINSON:</p> <p>16 Q. Go ahead, Doctor.</p> <p>17 THE WITNESS: May I proceed with the objection on -- on the table?</p> <p>19 MS. HIBBERT: You can proceed if you can answer the question.</p> <p>21 BY THE WITNESS:</p> <p>22 A. I can answer the question.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. I thought so. Go ahead.</p>	<p>1 BY THE WITNESS:</p> <p>2 A. It -- it does call for speculation. I -- I -- I believe that it was the exact same process presented to a differently composed PTAC, possibly with more forceful arguments, but I believe the process of presenting it was staff with these excise -- ex -- external people with them and it was adopted.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay. And was one of the external people to your understanding when the process happened the next year Dr. Dahl?</p> <p>13 MS. HIBBERT: Objection to form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. You asked me only to my understanding, and I would say to my understanding, but I could be wrong.</p> <p>17 BY MS. DICKINSON:</p> <p>18 Q. Is it -- to your understanding is the answer yes?</p> <p>20 MS. HIBBERT: Objection to form, asked and answered. He told you what he knew. He said he doesn't know is his understanding.</p> <p>23 BY THE WITNESS:</p> <p>24 A. Yeah, I -- I don't --</p>

Page 238	Page 240
<p>1 BY MS. DICKINSON:</p> <p>2 Q. I'm ask -- wait, wait, wait. Let's stop.</p> <p>3 MS. HIBBERT: You are putting words in his mouth</p> <p>4 and we are not going to continue doing this. This</p> <p>5 is --</p> <p>6 MS. DICKINSON: I am not putting words in his</p> <p>7 mouth.</p> <p>8 MS. HIBBERT: Yes, you are. You absolutely are.</p> <p>9 MS. DICKINSON: I asked for his understanding</p> <p>10 and he is going to give the answer. Counsel, you are</p> <p>11 breaking up the deposition --</p> <p>12 MS. HIBBERT: He has given the answer.</p> <p>13 MS. DICKINSON: -- to the point where the -- I</p> <p>14 can't understand the witness's questions because you</p> <p>15 are talking over him.</p> <p>16 MS. HIBBERT: He has not asked any questions.</p> <p>17 He was giving a --</p> <p>18 MS. DICKINSON: Can you please be respectful and</p> <p>19 wait --</p> <p>20 MS. HIBBERT: -- responsive answer.</p> <p>21 MS. DICKINSON: -- until he has finished his</p> <p>22 answer.</p> <p>23 MS. HIBBERT: I will not.</p> <p>24 MS. DICKINSON: And there is another question on</p>	<p>1 A. Yeah. I am not certain that she was</p> <p>2 there, but I think she was there.</p> <p>3 Q. Okay. And when the new standards passed</p> <p>4 requiring hospitals to assess pain in each patient,</p> <p>5 did hospitals around the country have to follow them?</p> <p>6 MS. HIBBERT: Objection to form, calls for</p> <p>7 speculation, lack of foundation.</p> <p>8 BY THE WITNESS:</p> <p>9 A. No hospital has to follow any standard.</p> <p>10 BY MS. DICKINSON:</p> <p>11 Q. Fair enough.</p> <p>12 If hospitals did not follow the Joint</p> <p>13 Commission standards, they would essentially -- they</p> <p>14 may lose their accreditation, is that correct?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. It takes a lot to lose accreditation.</p> <p>18 BY MS. DICKINSON:</p> <p>19 Q. Okay. We talked earlier, generally</p> <p>20 hospitals endeavor to follow the standards, don't</p> <p>21 they?</p> <p>22 MS. HIBBERT: Objection to form, calls for</p> <p>23 speculation, lack of foundation.</p> <p>24 BY THE WITNESS:</p>
<p style="text-align: center;">Page 239</p> <p>1 the table.</p> <p>2 MS. HIBBERT: I can object. I can put an</p> <p>3 objection on the record in between your question and</p> <p>4 the answer. I don't even know what you are talking</p> <p>5 about.</p> <p>6 MS. DICKINSON: I will give you a running</p> <p>7 objection to this entire line of questions if you</p> <p>8 would stop breaking up the witness's testimony by</p> <p>9 talking over him.</p> <p>10 MS. HIBBERT: No.</p> <p>11 MS. DICKINSON: Would you like a running</p> <p>12 objection?</p> <p>13 MS. HIBBERT: Please ask a question.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. Okay. I'm sorry, Doctor. Can we start</p> <p>16 again.</p> <p>17 I asked if your understanding was the year</p> <p>18 that it passed, the year after you rotated off the</p> <p>19 PTAC committee, if Dr. Dahl had participated in again</p> <p>20 advocating for the change?</p> <p>21 MS. HIBBERT: Objection; form. He has already</p> <p>22 answered that question.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. Go ahead, Doctor.</p>	<p style="text-align: center;">Page 241</p> <p>1 A. Is your question do hospitals in general</p> <p>2 endeavor to adhere to Joint Commission standards?</p> <p>3 BY MS. DICKINSON:</p> <p>4 Q. Yes.</p> <p>5 A. In general --</p> <p>6 MS. HIBBERT: Objection. Same objections.</p> <p>7 BY THE WITNESS:</p> <p>8 A. In general, hospitals do.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. In general was this new standard in your</p> <p>11 view a good or a bad thing?</p> <p>12 MS. HIBBERT: Objection to form, outside the</p> <p>13 scope of this witness' opinions. This witness is not</p> <p>14 being offered as a fact witness.</p> <p>15 BY THE WITNESS:</p> <p>16 A. Yeah, I really feel like this is far</p> <p>17 afield from what I've been asked to present as an</p> <p>18 expert. I don't have any opinions here about pain, I</p> <p>19 don't have any opinions about pain treatment, about</p> <p>20 evaluation of pain, about hospital accreditation.</p> <p>21 Those are not opinions I was asked to formulate, nor</p> <p>22 have I researched them. You know --</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. Doctor, this is a part of your background.</p>

Page 242	Page 244
<p>1 MS. HIBBERT: Let him finish. You are 2 interrupting his answer now. 3 Doctor, are you finished? 4 BY THE WITNESS: 5 A. No, no -- my -- I -- I am never, ever 6 supposed to be debate you, but I -- I disagree with 7 your characterization that asking me my opinion about 8 whether a given Joint Commission standard was well 9 crafted or not is my background.</p> <p>10 BY MS. DICKINSON: 11 Q. Well, you served on the PTAC for the Joint 12 Commission, did you not? 13 A. Oh, I did. 14 Q. Okay. So I'm going to ask my question 15 again. 16 Did you believe in your opinion that this 17 standard change was a good thing or a bad thing? 18 MS. HIBBERT: Same objections, asked and 19 answered.</p> <p>20 BY THE WITNESS: 21 A. I -- I honestly don't understand the 22 ramifications of my answering or not answering. I 23 don't know if I'm compelled to answer. I'm just 24 trying to understand the process, because, really, you</p>	<p>1 opinion in public and stating an opinion in deposition 2 as an expert are very different things. 3 BY MS. DICKINSON: 4 Q. Doctor, I am not trying to argue with you. 5 I'm just asking if you hold an opinion. You told me a 6 minute ago you do not have an opinion. I was asking 7 if you ever have stated such an opinion in public. 8 MS. HIBBERT: Objection -- 9 BY MS. DICKINSON: 10 Q. Have you? 11 MS. HIBBERT: Objection to form, asked and 12 answered.</p> <p>13 BY THE WITNESS: 14 A. I don't think I've answered the question 15 of have I stated a general viewpoint in public about 16 the standard. I have.</p> <p>17 BY MS. DICKINSON: 18 Q. Okay. And what was that general viewpoint 19 about the standard that you have stated in public? 20 MS. HIBBERT: Objection to form.</p> <p>21 BY THE WITNESS: 22 A. I think the standard, on balance, has not 23 been helpful.</p> <p>24 BY MS. DICKINSON:</p>
<p>1 are asking me about a lot of stuff that is not part of 2 what I thought I was brought here to do under oath, 3 honestly.</p> <p>4 BY MS. DICKINSON: 5 Q. Doctor -- doctor, I'm not trying to trick 6 you. If you have no opinion, that's fine. But if you 7 do have a pin -- an opinion, you are under oath. 8 Do you have an opinion whether the new 9 standard was a good or a bad thing?</p> <p>10 A. I do not -- 11 MS. HIBBERT: Objection to form.</p> <p>12 BY THE WITNESS: 13 A. Right, right, I don't have an opinion.</p> <p>14 BY MS. DICKINSON: 15 Q. You don't have an opinion. 16 Have you ever stated an opinion in public 17 about -- 18 MS. HIBBERT: Objection. 19 BY MS. DICKINSON: 20 Q. -- whether the standard was a good or a 21 bad thing? 22 MS. HIBBERT: Objection to form. 23 BY THE WITNESS: 24 A. My understanding is that stating an</p>	<p>1 Q. And -- and why is that? 2 A. Because I believe that hospitals in their 3 efforts to adhere to the standards and implement 4 policies did things that were never required by the 5 Joint Commission. I believe the hospitals did things 6 that have not been helpful. 7 Q. When you say things that have not been 8 helpful, do you mean that the standard increased the 9 use of opioids? 10 MS. HIBBERT: Objection to form.</p> <p>11 BY THE WITNESS: 12 A. I think I know the question that I'd like 13 you to ask, and it is very similar to the one you 14 asked. Could you rephrase, maybe? 15 BY MS. DICKINSON: 16 Q. I can't guess as to one you want me to 17 ask. 18 A. That's right, you can't read my mind. 19 Q. I'm sorry. 20 Is part of the way that the standards have 21 not been helpful increasing the use of opioids in your 22 view? 23 MS. HIBBERT: Objection to form. 24 BY THE WITNESS:</p>

Page 246	Page 248
<p>1 A. Yes.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Doctor, do you know if the UW Pain and</p> <p>4 Policy Group also worked with the Federation of State</p> <p>5 Medical Boards?</p> <p>6 A. I do know that.</p> <p>7 MS. HIBBERT: Objection to form.</p> <p>8 THE WITNESS: Sorry.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay. Do you know what their work with</p> <p>11 the Federation of State Medical Boards was?</p> <p>12 MS. HIBBERT: Objection to form.</p> <p>13 BY THE WITNESS:</p> <p>14 A. I have a general sense, yes.</p> <p>15 BY MS. DICKINSON:</p> <p>16 Q. Okay. What is that general sense?</p> <p>17 A. They advised the federation to revise its</p> <p>18 own views on opioid prescribing.</p> <p>19 Q. Okay. And in -- in what way were those</p> <p>20 views revised?</p> <p>21 MS. HIBBERT: Objection to form.</p> <p>22 BY THE WITNESS:</p> <p>23 A. Again, this is way outside of my expert</p> <p>24 opinion, but you asked my knowledge about what</p>	<p>1 helped the day move along.</p> <p>2 I just have a -- I -- I may jump around</p> <p>3 just a little bit with these last set of questions on</p> <p>4 some different subject areas, so just let me know if</p> <p>5 you don't understand where we are or what we are</p> <p>6 talking about.</p> <p>7 With respect to Exhibit 3, I just want to</p> <p>8 ask about one more of your positions that you listed</p> <p>9 in that. At Page 10 at the top, could you go to that?</p> <p>10 A. Yes, ma'am.</p> <p>11 Q. Okay. The -- under Consulting Positions,</p> <p>12 the very top one says: "To attorneys and insurance</p> <p>13 companies" and then it says: "Re legal consultations,</p> <p>14 depositions, case reviews and independent medical</p> <p>15 exams."</p> <p>16 Is -- is this a description of the work</p> <p>17 that you do for Michael Miller, M.D. LLC, your</p> <p>18 consulting company?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. Okay. We've already talked about some of</p> <p>21 your consulting arrangements today.</p> <p>22 Are there -- is there any work that you</p> <p>23 are doing for attorneys consulting that we haven't</p> <p>24 talked about today? I don't want -- I don't want</p>
<p style="text-align: center;">Page 247</p> <p>1 happened, and I certainly have knowledge about all of</p> <p>2 those things that played out.</p> <p>3 Their hope was that licensure boards would</p> <p>4 not discipline physicians for overprescribing and, in</p> <p>5 fact, as a result of the dialogue, the federation</p> <p>6 members who were the individual state licensure</p> <p>7 entities became more prone to disciplining physicians</p> <p>8 for undertreating pain.</p> <p>9 MS. DICKINSON: Doctor, I think it might make</p> <p>10 sense to take a very short break and then I think we</p> <p>11 have less than a half hour to go. Maybe even much</p> <p>12 shorter than that. I'm going to try to consolidate a</p> <p>13 little bit, okay?</p> <p>14 THE WITNESS: Yes, ma'am.</p> <p>15 THE VIDEOGRAPHER: We are off the record at</p> <p>16 3:43 p.m.</p> <p>17 (WHEREUPON, a recess was had</p> <p>18 from 3:43 to 3:49 p.m.)</p> <p>19 THE VIDEOGRAPHER: We are back on the record at</p> <p>20 3:50 -- 49 p.m.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Okay. Dr. Miller, we are back on the</p> <p>23 record after a very short break, and I do appreciate</p> <p>24 you keeping the breaks really short. It has really</p>	<p style="text-align: center;">Page 249</p> <p>1 specifics yet. Just let me ask the question first and</p> <p>2 then I'll ask a follow-up.</p> <p>3 Is there any work for attorneys that you</p> <p>4 are currently performing for Michael Miller, M.D. that</p> <p>5 we haven't talked about already today?</p> <p>6 MS. HIBBERT: Objection to form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. Yes, there is.</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Okay. Does any of that work that we</p> <p>11 haven't talked about already today have to do with</p> <p>12 opioids?</p> <p>13 MS. HIBBERT: Objection to form.</p> <p>14 BY THE WITNESS:</p> <p>15 A. You asked me that question before and,</p> <p>16 again, if there is ever a case of opioid addiction, a</p> <p>17 case of opioid withdrawal, I mean, there -- there</p> <p>18 could be some in there, and -- and with regard to this</p> <p>19 litigation and the -- and the -- and the issues here,</p> <p>20 no, but opioids in the broadest sense, sure.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Okay. Maybe it's easiest to ask it this</p> <p>23 way:</p> <p>24 How much of your time, professional time,</p>

Page 250	Page 252
<p>1 is spent for Michael Miller Consulting?</p> <p>2 MS. HIBBERT: Objection to form, asked and</p> <p>3 answered.</p> <p>4 BY THE WITNESS:</p> <p>5 A. The work expands as it presents itself.</p> <p>6 So it could be as little as 5 percent of a 40-hour</p> <p>7 workweek or it could expand to 20 hours a week which</p> <p>8 would make my workweek 60 hours, so...</p> <p>9 BY MS. DICKINSON:</p> <p>10 Q. Generally, I just want to get a sense of</p> <p>11 it, and I may have already asked you this, I do really</p> <p>12 apologize if I have, in the last year how much of your</p> <p>13 time has been spent for Michael Miller Consulting?</p> <p>14 MS. HIBBERT: Objection to form, asked and</p> <p>15 answered.</p> <p>16 BY MS. DICKINSON:</p> <p>17 Q. What percentage?</p> <p>18 MS. HIBBERT: Same objection.</p> <p>19 BY THE WITNESS:</p> <p>20 A. Again, I've been quite involved with</p> <p>21 consulting work since I left full-time work. And --</p> <p>22 and, again, part of the reason to leave full-time work</p> <p>23 is to be able to do more consulting work because I</p> <p>24 kept getting demands for consult work and I'd keep</p>	<p>1 A. I am not aware of any such prohibition.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Prior to 2018 when I think you were saying</p> <p>4 you were starting to wrap up your consulting business,</p> <p>5 what portion of your professional work in the last</p> <p>6 five years has generally been for Michael Miller</p> <p>7 Consulting?</p> <p>8 A. 5 percent.</p> <p>9 Q. Okay. Fair.</p> <p>10 This was an odd question, actually, I</p> <p>11 have. Appendix A had some portions of your CV that</p> <p>12 were in bold.</p> <p>13 Is there any sig -- significance to the</p> <p>14 bold?</p> <p>15 A. Where?</p> <p>16 Q. On mine, let's see, a good example on mine</p> <p>17 was Page 14, and maybe this only existed on Appendix A</p> <p>18 and not actually on Exhibit 3.</p> <p>19 A. Oh, those are things I considered to be</p> <p>20 pretty significant, a total subjective rating by me.</p> <p>21 Q. Okay. So there is actually a significance</p> <p>22 to the bold, those are -- those are more significant</p> <p>23 events on your CV, is that fair?</p> <p>24 A. More significant events on the CV, right,</p>
<p>1 going to my employer and saying, Can I do this, is it</p> <p>2 a conflict, so finally we decided just leave this</p> <p>3 full-time job so I could go do all of this stuff.</p> <p>4 So, it's gotten to be pretty busy. I have</p> <p>5 two open cases now in addition to this one and I have</p> <p>6 another one or two pending and another which has</p> <p>7 already wrapped up all in the last ten months.</p> <p>8 BY MS. DICKINSON:</p> <p>9 Q. Okay. Is your ultimate goal to transition</p> <p>10 your entire professional work to the consulting</p> <p>11 business?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Does UW allow you to do -- run your</p> <p>14 consulting business?</p> <p>15 A. Yes.</p> <p>16 MS. HIBBERT: Objection to form.</p> <p>17 THE WITNESS: Sorry.</p> <p>18 BY MS. DICKINSON:</p> <p>19 Q. So the UW prohibition on working for</p> <p>20 advisory boards or speakers bureaus or things of that</p> <p>21 nature does not extend to expert witness work for</p> <p>22 pharmaceutical companies, is that fair?</p> <p>23 MS. HIBBERT: Objection to form.</p> <p>24 BY THE WITNESS:</p>	<p>1 more significant committees, more significant</p> <p>2 publications, more significant presentations.</p> <p>3 Q. I'm glad I asked because I just thought it</p> <p>4 was a mistake.</p> <p>5 A. No, no. It's like -- it's like if you</p> <p>6 don't want to read all of this stuff, just let your</p> <p>7 eyes go to the bolds.</p> <p>8 Q. Okay. Fair. That is helpful.</p> <p>9 Do you retain copies of the presentations</p> <p>10 that are listed in your CV?</p> <p>11 A. Some.</p> <p>12 Q. Okay. So we would have to ask on a</p> <p>13 specific basis whether you retained a copy?</p> <p>14 A. You would.</p> <p>15 Q. Okay. Did you -- I think you mentioned in</p> <p>16 your report you had involvement in the authorship of</p> <p>17 the ASAM criteria for defining addiction, is that</p> <p>18 right?</p> <p>19 A. You just conflated two things.</p> <p>20 Q. Oh, fair enough. Okay.</p> <p>21 What -- what two things?</p> <p>22 A. Ans -- answer yes to both.</p> <p>23 Q. Okay.</p> <p>24 A. But -- but -- but it is not the same</p>

Page 254	Page 256
<p>1 thing.</p> <p>2 Q. Okay. What involvement did you have in</p> <p>3 authoring the ASAM criteria, what was typically</p> <p>4 referred to as ASAM criteria?</p> <p>5 A. Exactly. The first edition was published</p> <p>6 in '91. I had no role.</p> <p>7 Q. Okay.</p> <p>8 A. The next edition was published in '94, I</p> <p>9 think, and I was on the work group that wrote it.</p> <p>10 Q. Okay.</p> <p>11 A. I was not on any other work groups</p> <p>12 thereafter. But then I was asked to be the managing</p> <p>13 editor of the current edition, which was '13 and I</p> <p>14 contributed, and I don't think I really got credit</p> <p>15 for, the chapter on treatment of tobacco use disorder</p> <p>16 and the treatment of seniors. And so I reviewed the</p> <p>17 full draft of the current edition and served as</p> <p>18 managing editor.</p> <p>19 Q. Okay. So the 2013 version is the current</p> <p>20 version, correct?</p> <p>21 A. Yes, ma'am.</p> <p>22 Q. Okay. I assume, but I'm not going to</p> <p>23 assume, are you satisfied with the language in the</p> <p>24 current version?</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. Does the ASAM criteria define</p> <p>3 opioid use disorder?</p> <p>4 A. No.</p> <p>5 Q. Does the ASAM criteria rely on the DSM for</p> <p>6 the definition of opioid use disorder?</p> <p>7 MS. HIBBERT: Objection to form.</p> <p>8 BY THE WITNESS:</p> <p>9 A. I'm scratching my head. That was a very,</p> <p>10 very specific question, and it -- what it does is it</p> <p>11 relies on the DSM for all substance use disorder</p> <p>12 diagnoses, and so I guess opioids would be included,</p> <p>13 but it's -- it's not as precise as your question was.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. Okay. Fair.</p> <p>16 How does the ASAM criteria rely on the DSM</p> <p>17 for all substance use diagnoses?</p> <p>18 MS. HIBBERT: Objection to form.</p> <p>19 BY THE WITNESS:</p> <p>20 A. The way it does it goes back to the first</p> <p>21 edition in '91, and it says: This is the criteria for</p> <p>22 the treatment of substance use disorder. And it says</p> <p>23 that a necessary first step is a diagnosis, that you</p> <p>24 don't offer treatment for what I call addiction unless</p>
Page 255	Page 257
<p>1 MS. HIBBERT: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. The reason I will say that you asked a</p> <p>4 loaded question is because I was specifically asked to</p> <p>5 contribute to language.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Okay.</p> <p>8 A. I was specifically asked to assist with</p> <p>9 terminology, and I failed to mention that in addition</p> <p>10 to the roles I have previously just testified to, I</p> <p>11 wrote paragraphs -- I don't think a chapter, but</p> <p>12 paragraphs with regard to terminology and I tried to</p> <p>13 edit the full book for terminology with respect to the</p> <p>14 ASAM definition, because the ASAM definition is a</p> <p>15 specific thing and the ASAM criteria says that it uses</p> <p>16 terminology of the Diagnostic and Statistical Manual</p> <p>17 of the American Psychiatric Association which isn't</p> <p>18 the same as the terminology of the ASAM definition of</p> <p>19 addiction. Therefore, language is something that</p> <p>20 matters, and you said am I satisfied with the</p> <p>21 language. I am okay with where we got to in the final</p> <p>22 version.</p> <p>23 Q. Okay. And that includes the definition of</p> <p>24 addiction?</p>	<p>1 addiction is present. So it says you must have a</p> <p>2 diagnosis present and the diagnosis must comply with</p> <p>3 the current edition of the DSM. That's how it does</p> <p>4 it.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. Totally understood.</p> <p>7 Did you have any involvement with</p> <p>8 authorship of any of the DSM criteria?</p> <p>9 MS. HIBBERT: Objection to form.</p> <p>10 BY THE WITNESS:</p> <p>11 A. I was in regular dialogue with the</p> <p>12 authors, but I was on none of the work groups and my</p> <p>13 name is nowhere in it.</p> <p>14 BY MS. DICKINSON:</p> <p>15 Q. Okay. Who were the authors that you were</p> <p>16 in regular dialogue with?</p> <p>17 A. The addiction and substance related</p> <p>18 disorders chapter was chaired by Charles O'Brien and a</p> <p>19 very active member of the committee was Wilson Compton</p> <p>20 and those are the two gentlemen that I had most of my</p> <p>21 e-mails with.</p> <p>22 Q. Was Charles O'Brien the pry -- and</p> <p>23 Wills -- Wilson, I'm sorry, what is his last name?</p> <p>24 A. Compton.</p>

Page 258	Page 260
<p>1 Q. Compton.</p> <p>2 Were Charles O'Brien and Wilson Compton</p> <p>3 the primary authors of the addiction and substance</p> <p>4 abuse portion of the DSM-V?</p> <p>5 A. That's not the way the APA categorizes it.</p> <p>6 They say everything is done by committee and there are</p> <p>7 committee chairs. You can decide if that's the</p> <p>8 equivalent of author.</p> <p>9 Q. Okay. That's fair.</p> <p>10 Who -- were Charles O'Brien and Wilson</p> <p>11 Compton the committee chairs in charge of authoring</p> <p>12 the addiction and substance abuse portion of DSM-V?</p> <p>13 A. I don't recall any particular title that</p> <p>14 Dr. Compton had, but Dr. O'Brien was the chair of the</p> <p>15 chapter.</p> <p>16 Q. Okay. Do you know who else served on the</p> <p>17 committee authoring that chapter other than</p> <p>18 Dr. O'Brien and Dr. Compton?</p> <p>19 A. I do not recall today, ma'am.</p> <p>20 Q. Okay. Did you have regular interaction</p> <p>21 with Dr. O'Brien over the substance of what was going</p> <p>22 to be in DSM-V?</p> <p>23 A. No.</p> <p>24 MS. HIBBERT: Objection to form.</p>	<p>1 DSM criteria, what was that episodic interaction</p> <p>2 about?</p> <p>3 MS. HIBBERT: Objection to form.</p> <p>4 BY THE WITNESS:</p> <p>5 A. I recall some specific, very specific</p> <p>6 dialogue I had with them regarding cannabis use</p> <p>7 disorder and tobacco use disorder and how I thought</p> <p>8 that they could have formatted that differently. I</p> <p>9 had no specific comments about opioid use disorder. I</p> <p>10 had general concerns about the sort of fundamental</p> <p>11 framework which considers there to be a continuity</p> <p>12 between mild, what they call mild SUD and moderate and</p> <p>13 severe SUD.</p> <p>14 Q. And did you discuss those concerns with</p> <p>15 Dr. -- either Dr. O'Brien or Dr. Compton?</p> <p>16 A. I did.</p> <p>17 Q. With both of them?</p> <p>18 A. At different times. I don't know if I</p> <p>19 ever sent an e-mail copy to both, but at different</p> <p>20 points each of them.</p> <p>21 Q. Did the resulting DSM-V reflect -- or was</p> <p>22 the resulting DSM-V in -- in align with the way you --</p> <p>23 that's a terrible question. God, I'm sorry. It is</p> <p>24 getting late.</p>
<p style="text-align: center;">Page 259</p> <p>1 THE WITNESS: Sorry.</p> <p>2 BY THE WITNESS:</p> <p>3 A. No, I did not.</p> <p>4 BY MS. DICKINSON:</p> <p>5 Q. Okay. Did you have regular interaction</p> <p>6 with Dr. Compton over the substance of what was going</p> <p>7 to be in DSM-V?</p> <p>8 MS. HIBBERT: Objection to form.</p> <p>9 BY THE WITNESS:</p> <p>10 A. No.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. When you said that you had regular</p> <p>13 interaction with Dr. O'Brien and Dr. Compton over the</p> <p>14 DSM criteria, what was the regular interaction about?</p> <p>15 MS. HIBBERT: Objection to form,</p> <p>16 mischaracterizes the testimony.</p> <p>17 BY THE WITNESS:</p> <p>18 A. Yeah, I don't recall that I ever said</p> <p>19 "regular." It was episodic.</p> <p>20 BY MS. DICKINSON:</p> <p>21 Q. Okay. Sorry. I didn't mean to put words</p> <p>22 in your mouth.</p> <p>23 When you say that you had episodic</p> <p>24 interaction with Dr. Compton and Dr. O'Brien over the</p>	<p style="text-align: center;">Page 261</p> <p>1 The concerns you were expressing about the</p> <p>2 language of the -- to Dr. Compton and Dr. O'Brien,</p> <p>3 were those addressed in your view in the ultimate</p> <p>4 resulting language in DSM-V?</p> <p>5 MS. HIBBERT: Objection to form.</p> <p>6 BY THE WITNESS:</p> <p>7 A. No.</p> <p>8 THE WITNESS: Sorry.</p> <p>9 BY THE WITNESS:</p> <p>10 A. No.</p> <p>11 BY MS. DICKINSON:</p> <p>12 Q. Were Dr. O'Brien and Dr. Compton to your</p> <p>13 knowledge on the committee that authored DSM-IV?</p> <p>14 A. I don't know.</p> <p>15 Q. Okay. Same question with respect to</p> <p>16 DSM-III, were Dr. O'Brien and Dr. Compton on the</p> <p>17 committee that authored DSM-III?</p> <p>18 A. I do not recall.</p> <p>19 Q. Do you know what -- at what point in time</p> <p>20 Dr. O'Brien started to chair the committee regarding</p> <p>21 the DSM diagnostic criteria, specifically the</p> <p>22 addiction and substance abuse chapter?</p> <p>23 A. I do not know exactly when that happened.</p> <p>24 Q. Do you know roughly?</p>

Page 262	Page 264
<p>1 MS. HIBBERT: Objection to form.</p> <p>2 BY THE WITNESS:</p> <p>3 A. I believe that the project was an</p> <p>4 eight-year project and I think he was probably there</p> <p>5 at the start.</p> <p>6 BY MS. DICKINSON:</p> <p>7 Q. Okay.</p> <p>8 A. But I don't know that he was the original</p> <p>9 chair. I honestly don't know.</p> <p>10 Q. Fair enough.</p> <p>11 To your knowledge, he was involved in the</p> <p>12 entirety of the project whether or not he was the</p> <p>13 chair of that project the entire time you don't know,</p> <p>14 is that fair?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I honestly don't know if he was on the</p> <p>18 committee from day one. I -- I can only speculate as</p> <p>19 to that.</p> <p>20 BY MS. DICKINSON:</p> <p>21 Q. Okay. In -- in your experience, did you</p> <p>22 view Dr. O'Brien and Dr. Compton as the -- as the face</p> <p>23 of that committee essentially?</p> <p>24 MS. HIBBERT: Objection to form.</p>	<p>1 Q. Have you ever met with any other experts</p> <p>2 on the defense side in this case?</p> <p>3 MS. HIBBERT: Objection to form, lack of</p> <p>4 foundation.</p> <p>5 BY THE WITNESS:</p> <p>6 A. I don't know who they are.</p> <p>7 BY MS. DICKINSON:</p> <p>8 Q. Fair enough. You are not aware that</p> <p>9 you've met with any of the other experts that were</p> <p>10 disclosed as defense experts regarding this case, is</p> <p>11 that fair?</p> <p>12 A. Now, that was very well phrased because</p> <p>13 they be and I may not know it and I may have met with</p> <p>14 them in a meeting.</p> <p>15 Q. That was why I asked it the way I did.</p> <p>16 A. Yeah, I have no idea.</p> <p>17 Q. Okay.</p> <p>18 A. Yeah.</p> <p>19 Q. Have you been asked to provide trial</p> <p>20 testimony in this case?</p> <p>21 MS. HIBBERT: Objection to form.</p> <p>22 BY THE WITNESS:</p> <p>23 A. I don't -- I don't know how to answer that</p> <p>24 question. It hadn't -- it had -- it hasn't gotten to</p>
<p style="text-align: center;">Page 263</p> <p>1 BY THE WITNESS:</p> <p>2 A. I -- I would only characterize Dr. O'Brien</p> <p>3 as such.</p> <p>4 BY MS. DICKINSON:</p> <p>5 Q. Fair. Okay.</p> <p>6 Let's talk for a minute about diagnostic</p> <p>7 criteria for addiction. In your clinical practice,</p> <p>8 how do you conduct an evaluation for diagnosing</p> <p>9 someone with addiction?</p> <p>10 A. Clinical interview.</p> <p>11 Q. Are there any diagnostic tools that you</p> <p>12 use, such as an MRI or a PET scan or some other</p> <p>13 diagnostic tool other than a clinical interview to</p> <p>14 diagnosis someone with addiction?</p> <p>15 MS. HIBBERT: Objection to form.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I don't use anything besides the clinical</p> <p>18 interview. At -- at times I've used a standard</p> <p>19 questionnaire called the Michigan Alcoholism Screening</p> <p>20 Test which was adapted to be the Drug Abuse Screening</p> <p>21 Test by actually a colleague here at Wisconsin. So</p> <p>22 I've used the MAST and the DAST at times.</p> <p>23 Q. Anything else other than that?</p> <p>24 A. Nothing else.</p>	<p style="text-align: center;">Page 265</p> <p>1 that point.</p> <p>2 BY MS. DICKINSON:</p> <p>3 Q. Totally fair. My question -- my only</p> <p>4 question is do you have plans to be at the</p> <p>5 October trial in this case?</p> <p>6 MS. HIBBERT: Objection to form.</p> <p>7 BY THE WITNESS:</p> <p>8 A. If I'm asked to appear as an expert</p> <p>9 witness, I expect to be there.</p> <p>10 BY MS. DICKINSON:</p> <p>11 Q. Have you been asked to appear at the trial</p> <p>12 as of today?</p> <p>13 MS. HIBBERT: Objection to form, calls for a</p> <p>14 disclosure of communications between Dr. Miller and</p> <p>15 counsel that are outside of the bounds of Rule 26 and</p> <p>16 I'll advise you not to answer.</p> <p>17 THE WITNESS: I will -- I will follow your</p> <p>18 advice.</p> <p>19 BY MS. DICKINSON:</p> <p>20 Q. Dr. Miller, has -- have you blocked out on</p> <p>21 your calendar the trial dates in this case?</p> <p>22 A. Yes.</p> <p>23 Q. You talked earlier about a presentation</p> <p>24 that you may have given with David Haddox, and bear</p>

Page 266	Page 268
<p>1 with me, I'm just reading from my notes so I'm not 2 sure if I'm characterizing this the correct way, the 3 DSM-V and the new ASAM criteria, is that a 4 presentation that you gave jointly with David Haddox?</p> <p>5 MS. HIBBERT: Objection.</p> <p>6 BY THE WITNESS:</p> <p>7 A. Absolutely not.</p> <p>8 MS. DICKINSON:</p> <p>9 Q. Okay. I thought my notes were wrong on 10 that. Let's just talk about the presentation then. 11 There was a presentation listed in your CV, "DSM-V and 12 the New ASAM Criteria."</p> <p>13 Do you know if you have and retained a 14 copy of that presentation?</p> <p>15 A. Do you see in your notes, ma'am, to whom 16 the audience was?</p> <p>17 Q. I don't, but the date on it was June 13th 18 of 2014.</p> <p>19 A. Of the ones that come to mind, I think I 20 still have all of those.</p> <p>21 Q. Okay. Oh, here. Now here is where my 22 notes were about it -- this.</p> <p>23 There was -- you talked about serving on a 24 panel with David Haddox at the ACM meetings, is that</p>	<p>1 BY THE WITNESS: 2 A. I do not believe that Dr. O'Brien was ever 3 on the faculty for Common Threads.</p> <p>4 BY MS. DICKINSON:</p> <p>5 Q. Do you know if Dr. Bri -- O'Brien 6 generally participated in the ASAM organization?</p> <p>7 MS. HIBBERT: Objection to form, calls for 8 speculation.</p> <p>9 BY THE WITNESS: 10 A. My response to your question is that 11 Charlie was a frequent attendee and a not uncommon 12 presenter at ASAM conferences over decades.</p> <p>13 BY MS. DICKINSON:</p> <p>14 Q. Okay. Dr. Miller, do you own stock in any 15 pharmaceutical companies currently?</p> <p>16 A. I do not.</p> <p>17 MS. DICKINSON: I think that's all of the 18 questions I have for now. I don't know if you are 19 going to ask questions, but I could -- if you're -- 20 while you are asking, I could look at my notes, 21 otherwise I just need, like, a two-minute break.</p> <p>22 MS. HIBBERT: Let's take a two-minute break.</p> <p>23 MS. DICKINSON: Okay.</p> <p>24 THE VIDEOGRAPHER: We are off the record at</p>
<p>1 accurate?</p> <p>2 MS. HIBBERT: Objection to form.</p> <p>3 BY THE WITNESS:</p> <p>4 A. That's accurate.</p> <p>5 BY MS. DICKINSON:</p> <p>6 Q. Okay. And there was a presentation 7 roughly titled "Pain and Addiction: Common Threads," 8 am I saying that accurately?</p> <p>9 A. That, ma'am, would be the name of the 10 course. The presentation I have no idea what the -- 11 what it was or if it happened. I was speculating.</p> <p>12 Q. Okay. Do you have course materials from 13 that course, have you retained those?</p> <p>14 MS. HIBBERT: Objection to form. He just said 15 he didn't know if it happened.</p> <p>16 BY THE WITNESS:</p> <p>17 A. I don't know what I have and don't have. 18 I have some things. I may have some of my talks. 19 They may be too old to have been retained. And I may 20 have some syllabi, but I don't recall which ones.</p> <p>21 BY MS. DICKINSON:</p> <p>22 Q. Okay. Did Charles O'Brien participate in 23 the ASAM conferences that you were discussing earlier?</p> <p>24 MS. HIBBERT: Objection to form.</p>	<p>1 4:12 p.m. 2 (WHEREUPON, a recess was had 3 from 4:12 to 4:14 p.m.)</p> <p>4 THE VIDEOGRAPHER: We are back on the record at 5 4:14 p.m.</p> <p>6 MS. DICKINSON: Dr. Miller, we are back on the 7 record. You are still under oath.</p> <p>8 I think I am finished with my questions 9 for you here today. I may have a few more depending 10 on what your counsel asks.</p> <p>11 But just for the record, Counsel, I know 12 you were working on whether redacted invoices could be 13 produced here at the deposition today given Special 14 Master Cohen's ruling a few hours ago.</p> <p>15 Is -- is that able to be done today or are 16 we going to have to wait?</p> <p>17 MS. HIBBERT: Like I said off the record, we are 18 working on getting those invoices together and 19 redacted in hopes of producing them this evening. I 20 have not gotten word that those are ready yet. So 21 currently I'm still hoping to produce them this 22 evening, but I don't have them right now.</p> <p>23 BY MS. DICKINSON:</p> <p>24 Q. Okay. Dr. Miller, have I been respectful</p>

Page 270	Page 272
1 to you today?	1 how the answer could possibly be yes, and it's just
2 MS. HIBBERT: Objection to form.	2 absolutely no, not at all. It's no.
3 THE WITNESS: Objection to form?	3 MS. HIBBERT: Those are all of the questions
4 BY THE WITNESS:	4 that I have for you, Dr. Miller. Thank you.
5 A. Have you been respectful to me, yes,	5 THE WITNESS: Oh, my goodness. Thank you.
6 ma'am.	6 MS. DICKINSON: I have nothing further. You are
7 MS. DICKINSON: Thank you. I don't think I have	7 free. Thank you.
8 any further questions, again, unless your counsel asks	8 THE VIDEOGRAPHER: We are off the record at
9 something I need to clean up. So thank you very much	9 4:16 p.m.
10 for your time here today. I really appreciate it.	10 (Time Noted: 4:16 p.m.)
11 THE WITNESS: You are very welcome. Thank you	11 FURTHER DEPONENT SAITH NAUGHT.
12 too.	12
13 EXAMINATION	13
14 BY MS. HIBBERT:	14
15 Q. Just a couple of quick questions,	15
16 Dr. Miller.	16
17 Earlier today you talked about a couple of	17
18 sample expert reports that were sent to you by	18
19 counsel.	19
20 Do you recall that testimony?	20
21 A. I believe I do.	21
22 Q. Did you rely on --	22
23 A. Do you want to sit over there or I'll	23
24 just --	24
Page 271	Page 273
1 Q. No.	1 REPORTER'S CERTIFICATE
2 A. -- I'll just not make eye contact with	2
3 you.	3 I, JULIANA F. ZAJICEK, C.S.R. No. 84-2604,
4 MS. DICKINSON: I think she wants you to look at	4 a Certified Shorthand Reporter, do hereby certify:
5 the video.	5 That previous to the commencement of the
6 THE WITNESS: Yeah, yeah.	6 examination of the witness herein, the witness was
7 BY MS. HIBBERT:	7 duly sworn to testify the whole truth concerning the
8 Q. Did you rely on your review of any of	8 matters herein;
9 those sample expert reports in forming your opinions	9 That the foregoing deposition transcript
10 that you are offering in this case?	10 was reported stenographically by me, was thereafter
11 A. Oh, absolutely not. They -- they were --	11 reduced to typewriting under my personal direction and
12 they had no -- no material basis.	12 constitutes a true record of the testimony given and
13 Q. Earlier, Dr. Miller, you discussed some	13 the proceedings had;
14 limited engagements that you have had with various	14 That the said deposition was taken before
15 pharmaceutical manufacturers as well as a drug testing	15 me at the time and place specified;
16 company.	16 That I am not a relative or employee or
17 Do you recall that testimony?	17 attorney or counsel, nor a relative or employee of
18 A. Yes, ma'am.	18 such attorney or counsel for any of the parties
19 Q. Have any of those limited engagements	19 hereto, nor interested directly or indirectly in the
20 influenced the opinions that you are offering in this	20 outcome of this action.
21 case in any way?	21 IN WITNESS WHEREOF, I do hereunto set my
22 MS. DICKINSON: Objection; form.	22 hand on this 5th day of June, 2019.
23 BY THE WITNESS:	23
24 A. I was really, really trying to understand	24 JULIANA F. ZAJICEK, Certified Reporter

Page 274	Page 276
1 DEPOSITION ERRATA SHEET	1 DEPOSITION ERRATA SHEET
2	2 Page No. ____ Line No. ____ Change to: _____
3	3 _____
4 Case Caption: In Re: National Prescription	4 Reason for change: _____
5 Opiate Litigation	5 Page No. ____ Line No. ____ Change to: _____
6	6 _____
7 DECLARATION UNDER PENALTY OF PERJURY	7 Reason for change: _____
8	8 Page No. ____ Line No. ____ Change to: _____
9 I declare under penalty of perjury that I	9 _____
10 have read the entire transcript of my Deposition taken	10 Reason for change: _____
11 in the captioned matter or the same has been read to	11 Page No. ____ Line No. ____ Change to: _____
12 me, and the same is true and accurate, save and except	12 _____
13 for changes and/or corrections, if any, as indicated	13 Reason for change: _____
14 by me on the DEPOSITION ERRATA SHEET hereof, with the	14 Page No. ____ Line No. ____ Change to: _____
15 understanding that I offer these changes as if still	15 _____
16 under oath.	16 Reason for change: _____
17	17 Page No. ____ Line No. ____ Change to: _____
18 MICHAEL M. MILLER, M.D.	18 _____
19	19 Reason for change: _____
20 SUBSCRIBED AND SWORN TO	20 Page No. ____ Line No. ____ Change to: _____
21 before me this day	21 _____
22 of , A.D. 20___.	22 Reason for change: _____
23	23 SIGNATURE: _____ DATE: _____
24 Notary Public	24 MICHAEL M. MILLER, M.D.
Page 275	
1 DEPOSITION ERRATA SHEET	
2 Page No. ____ Line No. ____ Change to: _____	
3 _____	
4 Reason for change: _____	
5 Page No. ____ Line No. ____ Change to: _____	
6 _____	
7 Reason for change: _____	
8 Page No. ____ Line No. ____ Change to: _____	
9 _____	
10 Reason for change: _____	
11 Page No. ____ Line No. ____ Change to: _____	
12 _____	
13 Reason for change: _____	
14 Page No. ____ Line No. ____ Change to: _____	
15 _____	
16 Reason for change: _____	
17 Page No. ____ Line No. ____ Change to: _____	
18 _____	
19 Reason for change: _____	
20 Page No. ____ Line No. ____ Change to: _____	
21 _____	
22 Reason for change: _____	
23 SIGNATURE: _____ DATE: _____	
24 MICHAEL M. MILLER, M.D.	